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ONTARIO

# REVISED STATUTES OF ONTARIO, 1970

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL  
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED  
UNDER THE AUTHORITY OF THE STATUTES  
REVISION ACT, 1968-69

IN SIX VOLUMES

## VOL. 2

TORONTO

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## CHAPTER 130

## The Disorderly Houses Act

**1.** In this Act,Interpre-  
tation

- (a) “court” means the county or district court of the county or district in which a place is situate;
- (b) “place” includes a house, building, office, room or other premises or any part thereof, whether enclosed or not, and whether used permanently or temporarily, and whether there is or is not exclusive right of user. R.S.O. 1960, c. 108, s. 1.

**2.**—(1) Upon the application by originating notice of motion of the Minister of Justice and Attorney General or any other person, the court may make an order closing any place with respect to which a conviction has been made within the preceding three months under section 176, 177 or 182 of the *Criminal Code* (Canada) against its use for all or any purposes for any period not exceeding one year.

Closing  
order1953-54,  
c. 51 (Can.)

(2) Notice of the motion shall be served upon the registered owner and the lessee, tenant or other occupant of such place if they can be found within the county or district, and, if they cannot so be found, service may be made by delivering a copy of the notice to an inmate of such place apparently not under sixteen years of age, or in such other manner as the court directs.

Service of  
notice

(3) A copy of the conviction under the hand of a provincial judge or clerk of the peace is admissible in evidence as *prima facie* proof of the conviction and that the place therein described was the place with respect to which the conviction took place and of the date thereof.

Proof of  
conviction

(4) An order made under this section does not affect the rights of any person in the place described therein acquired after the making of such order without notice, in good faith and for valuable consideration. R.S.O. 1960, c. 108, s. 2, *amended*.

Rights of  
innocent  
purchaser

**3.**—(1) Upon the application by originating notice of motion of the registered owner or other person having an interest in a place that is closed pursuant to an order made under section 2 and upon his establishing his good faith and his ignorance of the unlawful use to which the place was put and upon his furnishing a cash bond in the sum of \$1,000, or such greater sum as the court

Suspensory  
order

1953-54,  
c. 51 (Can.)

may determine, to be deposited in court as security that the place will not be used during the term of the order for any purpose contrary to section 176, 177 or 182 of the *Criminal Code* (Canada), the court may make an order suspending the operation of the order that closed the place.

Service  
of notice

(2) Notice of the motion shall be served upon the Minister of Justice and Attorney General and upon the Crown attorney of the county or district in which the place is situate.

Further  
conviction

(3) Upon the conviction of any person for an offence against either of the sections mentioned in subsection 1 with respect to such place after the giving of such security, the court may upon summary application order the forfeiture of the bond and the payment to the Crown of the money deposited thereunder, and such order shall direct that the order made under section 2 has full force and effect and may be registered in the same manner as the order made under section 2. R.S.O. 1960, c. 108, s. 3, *amended*.

Registration

**4.** An order made under section 2 or 3 may be registered in the registry office or land titles office in which the title to the place described in the order is recorded. R.S.O. 1960, c. 108, s. 4.

Limited  
occupancy

**5.—(1)** Upon the application by originating notice of motion of the registered owner or other person having an interest in a place that is closed pursuant to an order made under section 2 and upon his establishing that the place or its contents is or are likely to suffer damage by reason of the closing order, the court may make an order containing such conditions and limitations as the court sees fit to impose and permitting the occupation of the place so far as may be necessary to prevent it or its contents from suffering damage.

Service  
of notice

(2) Notice of the motion shall be served upon the Minister of Justice and Attorney General and upon the Crown attorney of the county or district in which the place is situate. R.S.O. 1960, c. 108, s. 5, *amended*.

No appeal

**6.** There is no appeal from an order made under this Act. R.S.O. 1960, c. 108, s. 6.

Rules of  
practice

**7.—(1)** The rules relating to practice and procedure in the county and district courts, except in so far as they are varied or amended by the Lieutenant Governor in Council, apply to proceedings under this Act.

Power to  
make rules

(2) The Lieutenant Governor in Council may make rules prescribing,

(a) the practice and procedure under this Act;

(b) the forms to be used under this Act. R.S.O. 1960, c. 108, s. 7.

**8.** Where an order has been made under section 2 and the place described therein is used in contravention of the order, Violation  
of closing  
order

(a) the registered owner of the place; and

(b) any person found in the place while it is being so used,

shall be deemed to have contravened the order, unless, in the case of a person mentioned in clause *b*, he was there for a lawful purpose, the proof whereof is upon him. R.S.O. 1960, c. 108, s. 8.

**9.—(1)** Every person who contravenes any of the provisions of this Act or of any order made hereunder is guilty of an offence and on summary conviction is liable to imprisonment for a term of not less than one month and not more than twelve months. Offence

(2) Where a person convicted under subsection 1 is a corporation, it is liable to a fine of not less than \$1,000 and not more than \$5,000. Where  
person a  
corporation R.S.O. 1960, c. 108, s. 9.

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## CHAPTER 131

**The District Municipality of Muskoka Act**

## INTERPRETATION

**1.—In this Act,**Interpre-  
tation

- (a) “area municipality” means the municipality or corporation of the Town of Bracebridge, the Township of Georgian Bay, the Town of Gravenhurst, the Town of Huntsville, the Township of Lake of Bays and the Township of Muskoka Lakes, all as constituted by section 2;
- (b) “bridge” means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;
- (c) “chairman” means the chairman of the District Council;
- (d) “debt” includes any obligation for the payment of money;
- (e) “Department” means the Department of Municipal Affairs;
- (f) “divided municipality” means a local municipality parts of which are annexed to two or more municipalities under subsection 1 of section 2;
- (g) “District Area” means the area from time to time included within the area municipalities;
- (h) “District Corporation” means The District Municipality of Muskoka;
- (i) “District Council” means the council of the District Corporation;
- (j) “district road” means a road forming part of the district road system established under Part IV;
- (k) “highway” and “road” mean a common and public highway or any part thereof, and include a street, bridge, and any other structure incidental thereto or any part thereof;
- (l) “land” includes lands, tenements and hereditaments, and any estate or interest therein, and any right or easement affecting them, and land covered with water, and includes any buildings or improvements on land;

- (*m*) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the District Corporation or of an area municipality or of two or more area municipalities or parts thereof;
- (*n*) "local municipality" means in the year 1970 a local municipality and a geographic township in the District Area and the portion of the geographic township of Finlayson included in the District Area;
- (*o*) "Minister" means the Minister of Municipal Affairs;
- (*p*) "money by-law" means a by-law for contracting a debt or obligation or for borrowing money, other than a by-law passed under section 106;
- (*q*) "Municipal Board" means the Ontario Municipal Board. 1970, c. 32, s. 1.

## PART I

### AREA MUNICIPALITIES

Constitution  
of area  
municipalities

#### **2.—(1)** On the 1st day of January, 1971,

- (*a*) The Corporation of the Town of Bracebridge, The Corporation of the Township of Oakley, The Corporation of the Township of Macaulay and The Corporation of the Township of Draper are amalgamated as a town municipality bearing the name of The Corporation of the Town of Bracebridge and the portions of the Township of Monck, the Township of Muskoka, and the Township of McLean described as follows are annexed to such town:

FIRSTLY, part of the Township of Monck, commencing at the intersection of the northerly boundary of the said Township with the production northerly of the east limit of Lot 5 Concession XIII;

THENCE southerly to and along the easterly limit of Lot 5 in concessions XIII, XII, XI, X, IX, VIII, VII, VI and V to the intersection of the easterly limit of Lot 5 Concession V produced southerly with the centre line of the original allowance for road between concessions IV and V;



THENCE westerly along the said centre line of the original allowance for road between concessions IV and V to its intersection with the original high water mark of Lake Muskoka;

THENCE North 85° West through Lake Muskoka to its intersection with the production southerly of the centre line of the original allowance for road between lots 15 and 16 in Concession VI;

THENCE South 10° West through Lake Muskoka a distance of 43 chains;

THENCE North 80° West through Lake Muskoka between Pine and Birch Islands, 136 chains;

THENCE South 10° West through Lake Muskoka to its intersection with the boundary between the townships of Monck and Wood;

THENCE southeasterly along the said boundary to its intersection with the boundary between the townships of Monck and Muskoka;

THENCE in a general easterly direction along the said boundary through Lake Muskoka and Muskoka River to the southeast corner of the Township of Monck;

THENCE northerly along the easterly boundary of the said Township of the northeast corner of the said Township;

THENCE westerly along the northerly boundary of the said Township to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom that part of the Town of Bracebridge lying within the Corporation Boundary of the said Town;

SECONDLY, part of the Township of Muskoka, commencing at the northeast corner of the said Township;

THENCE southerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession X;

THENCE westerly to and along the southerly limit of Concession X and its production into Lake Muskoka 10 chains from the original high water mark of Lake Muskoka;

THENCE North 15° 41' West 90 chains, more or less, through Lake Muskoka to its intersection with a line drawn on a bearing of North 74° 19' East from the most southerly point of Heydon Island in Lake Muskoka;

THENCE South  $74^{\circ} 19'$  West 211 chains, more or less, through Lake Muskoka to a point distant 16 chains drawn on a bearing of North  $74^{\circ} 19'$  East from the most southerly point of said Heydon Island;

THENCE North  $15^{\circ} 41'$  West 91 chains, more or less, through Lake Muskoka to its intersection with the boundary between the townships of Muskoka and Wood;

THENCE northerly through Lake Muskoka following the said boundary to its intersection with the boundary between the townships of Muskoka and Monck;

THENCE easterly through Lake Muskoka and Muskoka River following the said boundary between the townships of Muskoka and Monck to the point of commencement;

THIRDLY, part of the Township of McLean commencing at the intersection of the westerly boundary of the said Township with the production westerly of the south limit of Concession IV;

THENCE southerly along the said westerly boundary to the southwest corner of the said Township;

THENCE easterly along the southerly boundary of the said Township to the southeast corner of the said Township;

THENCE northerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession IV;

THENCE westerly to and along the south limit of Concession IV and its production westerly to the point of commencement;

- (b) The Corporation of the Township of Freeman together with the geographic township of Gibson and the geographic township of Baxter are amalgamated as a township municipality bearing the name of The Corporation of the Township of Georgian Bay;
- (c) The Corporation of the Town of Gravenhurst, The Corporation of the Township of Morrison and The Corporation of the Township of Ryde are amalgamated as a town municipality bearing the name of The Corporation of the Town of Gravenhurst and the portions of the Township of Muskoka and the Township of Wood described as follows are annexed to such town:

FIRSTLY, part of the Township of Muskoka, commencing at the intersection of the easterly boundary of the said Township with the production easterly of the south limit of Concession X;

THENCE westerly to and along the southerly limit of Concession X and its production into Lake Muskoka 10 chains from the original high water mark of Lake Muskoka;

THENCE North  $15^{\circ} 41'$  West 90 chains, more or less, through Lake Muskoka to its intersection with a line drawn on a bearing of North  $74^{\circ} 19'$  East from the most southerly point of Heydon Island in Lake Muskoka;

THENCE South  $74^{\circ} 19'$  West 211 chains, more or less, through Lake Muskoka to a point distant 16 chains drawn on a bearing of North  $74^{\circ} 19'$  East from the most southerly point of said Heydon Island;

THENCE North  $15^{\circ} 41'$  West 91 chains, more or less, through Lake Muskoka to its intersection with the boundary between the townships of Muskoka and Wood;

THENCE southwesterly, northwesterly, and southwesterly following the boundary between the townships of Muskoka and Wood through Lake Muskoka to the original high water mark of Lake Muskoka;

THENCE westerly along the division line between the townships of Muskoka and Wood to the northwest angle of that part of the Township of Muskoka lying west of Lake Muskoka;

THENCE southerly along the westerly boundary of the said Township to the southwest corner of the said Township;

THENCE easterly along the southerly boundary of the said Township to the southeast corner of the said Township;

THENCE northerly along the easterly boundary of the said Township to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Town of Gravenhurst;

SECONDLY, part of the Township of Wood, commencing at the intersection of the production northerly of the easterly limit of Lot 9 Concession VI with the easterly limit of the Township of Wood (being the centre line of the allowance for road between the townships of Muskoka and Wood);

THENCE southerly along the easterly boundary of the said Township (being the westerly boundary of the Township of Muskoka) to the northerly boundary of the Township of Morrison;



THENCE westerly along the northerly boundary of the Township of Morrison;

THENCE southerly along the westerly boundary of the Township of Morrison to the southeast corner of the said Township of Wood;

THENCE westerly following the southerly boundary of the said Township of Wood to its intersection with the east limit of Lot 9 in Concession XX, produced southerly;

THENCE northerly to and along the easterly limit of Lot 9 in concessions XX, XIX, XVIII, XVII, XVI, XV, XIV, XIII, XII, XI, X, IX, VIII, VII and VI to the point of commencement;

- (d) The Corporation of the Town of Huntsville, The Corporation of the Village of Port Sydney, The Corporation of the Township of Brunel, The Corporation of the Township of Chaffey, The Corporation of the Township of Stisted and The Corporation of the Township of Stephenson are amalgamated as a town municipality bearing the name of The Corporation of the Town of Huntsville;
- (e) The Corporation of the Township of Franklin, The Corporation of the Township of Ridout and the geographic township of Sinclair are amalgamated as a township municipality bearing the name of The Corporation of the Township of Lake of Bays and the portions of the Township of McLean and the geographic township of Finlayson described as follows are annexed to the said Township of Lake of Bays:

FIRSTLY, part of the Township of McLean, commencing at the intersection of the westerly boundary of the said Township with the production westerly of the south limit of Concession IV;

THENCE northerly along the said westerly boundary to the northwest corner of the said Township;

THENCE easterly along the northerly boundary of the said Township to the northeast corner of the said Township;

THENCE southerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession IV;

THENCE westerly to and along the south limit of Concession IV and its production westerly to the point of commencement;

SECONDLY, part of the geographic township of Finlayson, commencing at the intersection of the centre line of the original allowance for road between lots 20 and 21 produced northerly with the northerly boundary of the said Township;

THENCE westerly along the said northerly boundary to the northwest corner of the said Township;

THENCE southerly along the westerly boundary to the southwest corner of the said Township;

THENCE easterly along the southerly boundary to its intersection with the centre line of the original allowance for road between lots 20 and 21 produced southerly;

THENCE northerly to and along the said centre line of the original allowance for road between lots 20 and 21 and its production northerly to the point of commencement;

- (f) The Corporation of the Town of Bala, The Corporation of the Village of Port Carling, The Corporation of the Village of Windermere, The Corporation of the Township of Cardwell and The Corporation of the Township of Watt are amalgamated as a township municipality bearing the name of The Corporation of the Township of Muskoka Lakes and the portions of the Township of Medora and Wood and the Township of Monck described as follows are annexed to such Township:

FIRSTLY, part of The Corporation of the United Townships of Medora and Wood commencing at the northwest corner of the Township of Medora;

THENCE southerly along the westerly boundary of the Township of Medora and the westerly boundary of the Township of Wood and easterly along the southerly boundary of the Township of Wood to its intersection with the production southerly of the easterly limit of the said Lot 9 Concession XX Township of Wood;

THENCE northerly to and along the eastern limit of Lot 9 in concessions XX, XIX, XVIII, XVII, XVI, XV, XIV, XIII, XII, XI, X, IX, VIII, VII and VI and its production northerly to its intersection with the easterly limit of the Township of Wood;

THENCE northerly and easterly along the boundary between the townships of Wood and Muskoka to its intersection with the boundary between the townships of Wood and Monck;

THENCE northwesterly along the boundary between the townships of Wood and Monck to its intersection with

the boundary between the townships of Medora and Monck;

THENCE northerly along the boundary between the townships of Medora and Monck to its intersection with the boundary between the townships of Medora and Watt;

THENCE northerly along the boundary between the townships of Medora and Watt to the northeast corner of the Township of Medora;

THENCE westerly along the northerly boundary of the township of Medora to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Corporation Boundary of the Village of Port Carling and the Corporation Boundary of the Town of Bala;

SECONDLY, part of the Township of Monck, commencing at the northwest corner of the said Township;

THENCE easterly along the northerly boundary to its intersection with the production northerly of the east limit of Lot 5 Concession XIII;

THENCE southerly to and along the easterly limit of Lot 5 in concessions XIII, XII, XI, X, IX, VIII, VII, VI and V to the intersection of the easterly limit of Lot 5 Concession V produced southerly with the centre line of the original allowance for road between concessions IV and V;

THENCE westerly along the said centre line of the original allowance for road between concessions IV and V to its intersection with the original high water mark of Lake Muskoka;

THENCE North 85° West through Lake Muskoka to its intersection with the production southerly of the centre line of the original allowance for road between lots 15 and 16 in Concession VI;

THENCE South 10° West through Lake Muskoka a distance of 43 chains;

THENCE North 80° West through Lake Muskoka between Pine and Birch Islands, 136 chains;

THENCE South 10° West through Lake Muskoka to its intersection with the boundary between the townships of Monck and Wood;

THENCE northwesterly along the boundary between the townships of Monck and Wood and the boundary between the townships of Monck and Medora to its

intersection with the westerly boundary of the Township of Monck;

THENCE northerly along the said westerly boundary to the point of commencement.

NOTE: *All Bearings are astronomic and are referred to the meridian passing through the northeast corner of the Township of Monck.*

(2) For the purposes of every Act, the amalgamations and annexations provided for in this Part shall be deemed to have been effected by order of the Municipal Board not subject to section 42 of *The Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of such Act, made on the 26th day of June, 1970, pursuant to applications made under sections 14 and 25 of *The Municipal Act*, being chapter 249 of the Revised Statutes of Ontario, 1960, and, subject to the provisions of this Act, the Municipal Board, upon the application of any area municipality or any local board thereof or of its own motion, may exercise its powers consequent upon such amalgamations, annexations and dissolutions, and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers, and "municipalities" in clause *a* of subsection 11 of section 14 of *The Municipal Act* includes, for the purposes of such clause, the area municipalities to which territory is annexed. 1970, c. 32, s. 2, *amended*.

Amalgamations and annexations deemed by Municipal Board orders  
R.S.O. 1970, c. 323

R.S.O. 1970, c. 284

**3.—**(1) The area municipality of the Town of Bracebridge is divided into the following wards:

Wards of area municipalities:  
Bracebridge

1. Bracebridge Ward — which shall comprise the area of the Town of Bracebridge as it exists on the 1st day of July, 1970.
2. Draper Ward — which shall comprise the area of the Township of Draper as it exists on the 1st day of July, 1970.
3. Macaulay Ward — which shall comprise the area of the Township of Macaulay as it exists on the 1st day of July, 1970.
4. Monck South Ward — which shall comprise part of the Township of Monck being more particularly described as follows:

COMMENCING at the intersection of the northerly boundary of the said Township with the production northerly of the east limit of Lot 5 Concession XIII;



THENCE southerly to and along the easterly limit of Lot 5 in concessions XIII, XII, XI, X, IX, VIII, VII, VI and V to the intersection of the easterly limit of Lot 5 Concession V produced southerly with the centre line of the original allowance for road between concessions IV and V;

THENCE westerly along the said centre line of the original allowance for road between Concessions IV and V to its intersection with the original high water mark of Lake Muskoka;

THENCE North 85° West through Lake Muskoka to its intersection with the production southerly of the centre line of the original allowance for road between lots 15 and 16 in Concession VI;

THENCE South 10° West through Lake Muskoka a distance of 43 chains;

THENCE North 80° West through Lake Muskoka between Pine and Birch Islands, 136 chains;

THENCE South 10° West through Lake Muskoka to its intersection with the boundary between the townships of Monck and Wood;

THENCE southeasterly along the said boundary to its intersection with the boundary between the townships of Monck and Muskoka;

THENCE in a general easterly direction along the said boundary through Lake Muskoka and Muskoka River to the southeast corner of the Township of Monck;

THENCE northerly along the easterly boundary of the said Township to the northeast corner of the said Township;

THENCE westerly along the northerly boundary of the said Township to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Bracebridge Ward.

5. Muskoka North Ward — which shall comprise the part of the Township of Muskoka being more particularly described as follows:

COMMENCING at the northeast corner of the said Township;

THENCE southerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession X;

THENCE westerly to and along the southerly limit of Concession X and its production into Lake Muskoka, 10 chains from the original high water mark of Lake Muskoka;

THENCE North 15° 41' West 90 chains, more or less, through Lake Muskoka to its intersection with a line drawn on a bearing of North 74° 19' East from the most southerly point of Heydon Island in Lake Muskoka;

THENCE South 74° 19' West 211 chains, more or less, through Lake Muskoka to a point distant 16 chains drawn on a bearing of North 74° 19' East from the most southerly point of said Heydon Island;

THENCE North 15° 41' West 91 chains, more or less, through Lake Muskoka to its intersection with the boundary between the townships of Muskoka and Wood;

THENCE northerly through Lake Muskoka following the said boundary to its intersection with the boundary between the townships of Muskoka and Monck;

THENCE easterly through Lake Muskoka and Muskoka River following the said boundary between the townships of Muskoka and Monck to the point of commencement.

6. Oakley Ward — which shall comprise the area of the Township of Oakley as it exists on the 1st day of July, 1970, together with part of the Township of McLean being more particularly described as follows:

COMMENCING at the intersection of the westerly boundary of the said Township with the production westerly of the south limit of Concession IV;

THENCE southerly along the said westerly boundary to the southwest corner of the said Township;

THENCE easterly along the southerly boundary of the said Township to the southeast corner of the said Township;

THENCE northerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession IV;

THENCE westerly to and along the south limit of Concession IV and its production westerly to the point of commencement.

Georgian  
Bay

(2) The area municipality of the Township of Georgian Bay is divided into the following wards:

1. Baxter Ward—which shall comprise the area of the geographic township of Baxter as it exists on the 1st day of July, 1970.
2. Freeman Ward — which shall comprise the area of the Township of Freeman as it exists on the 1st day of July, 1970.
3. Gibson Ward — which shall comprise the area of the geographic township of Gibson as it exists on the 1st day of July, 1970.

Gravenhurst

(3) The area municipality of the Town of Gravenhurst is divided into the following wards:

1. Gravenhurst Ward — which shall comprise the area of the Town of Gravenhurst as it exists on the 1st day of July, 1970.
2. Morrison Ward — which shall comprise the area of the Township of Morrison as it exists on the 1st day of July, 1970.
3. Muskoka South Ward — which shall comprise part of the Township of Muskoka and part of the Township of Wood, being more particularly described as follows:

*Part of Township of Muskoka*

COMMENCING at the intersection of the easterly boundary of the said Township with the production easterly of the south limit of Concession X;

THENCE westerly to and along the southerly limit of Concession X and its production into Lake Muskoka, 10 chains from the original high water mark of Lake Muskoka;

THENCE North 15° 41' West 90 chains, more or less, through Lake Muskoka to its intersection with a line drawn on a bearing of North 74° 19' East from the most southerly point of Heydon Island in Lake Muskoka;

THENCE South 74° 19' West 211 chains, more or less, through Lake Muskoka to a point distant 16 chains drawn on a bearing of North 74° 19' East from the most southerly point of said Heydon Island;

THENCE North 15° 41' West 91 chains, more or less, through Lake Muskoka to its intersection with the boundary between the townships of Muskoka and Wood;

THENCE southwesterly, northwesterly and southwesterly following the said boundary between the townships of Muskoka and Wood through Lake Muskoka to the original high water mark of Lake Muskoka;

THENCE westerly along the division line between the townships of Muskoka and Wood to the northwest angle of that part of the Township of Muskoka lying west of Muskoka Lake;

THENCE southerly along the westerly boundary of the said Township to the southwest corner of the said Township;

THENCE easterly along the southerly boundary of the said Township to the southeast corner of the said Township;

THENCE northerly along the easterly boundary of the said Township to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Gravenhurst Ward;

*Part of Township of Wood*

COMMENCING at the intersection of the production northerly of the easterly limit of Lot 9 Concession VI with the easterly limit of the Township of Wood (being the centre line of the allowance for road between the townships of Muskoka and Wood);

THENCE southerly along the easterly boundary of the said Township (being the westerly boundary of the Township of Muskoka) to the northerly boundary of the Township of Morrison;

THENCE westerly along the northerly boundary of the Township of Morrison;

THENCE southerly along the westerly boundary of the Township of Morrison to the southeast corner of the said Township of Wood;

THENCE westerly following the southerly boundary of the said Township of Wood being the centre line of the Severn River to its intersection with the east limit of Lot 9 in Concession XX, produced southerly;

THENCE northerly to and along the easterly limit of Lots 9 in concessions XX, XIX, XVIII, XVII, XVI, XV, XIV, XIII, XII, XI, X, IX, VIII, VII and VI to the point of commencement.

4. Ryde Ward — which shall comprise the area of the Township of Ryde as it exists on the 1st day of July, 1970.



Huntsville      (4) The area municipality of the Town of Huntsville is divided into the following wards:

1. Brunel Ward — which shall comprise the area of the Township of Brunel as it exists on the 1st day of July, 1970.
2. Chaffey Ward — which shall comprise the area of the Township of Chaffey as it exists on the 1st day of July, 1970.
3. Huntsville Ward — which shall comprise the area of the Town of Huntsville as it exists on the 1st day of July, 1970.
4. Port Sydney Ward — which shall comprise the area of the Village of Port Sydney as it exists on the 1st day of July, 1970.
5. Stephenson Ward — which shall comprise the area of the Township of Stephenson as it exists on the 1st day of July, 1970.
6. Stisted Ward — which shall comprise the area of the Township of Stisted as it exists on the 1st day of July, 1970.

Lake of Bays      (5) The area municipality of the Township of Lake of Bays is divided into the following wards:

1. Franklin Ward — which shall comprise the area of the Township of Franklin as it exists on the 1st day of July, 1970.
2. McLean Ward — which shall comprise part of the Township of McLean being more particularly described as follows:

COMMENCING at the intersection of the westerly boundary of the said Township with the production westerly of the south limit of Concession IV;

THENCE northerly along the said westerly boundary to the northwest corner of the said Township;

THENCE easterly along the northerly boundary of the said Township to the northeast corner of the said Township;

THENCE southerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession IV;

THENCE westerly to and along the south limit of Concession IV and its production westerly to the point of commencement.

3. Ridout Ward — which shall comprise the area of the Township of Ridout as it exists on the 1st day of July, 1970.
4. Sinclair Ward — which shall comprise the area of the geographic township of Sinclair as it exists on the 1st day of July, 1970, and part of the geographic township of Finlayson in the District of Nipissing being more particularly described as follows:

COMMENCING at the intersection of the centre line of the original allowance for road between lots 20 and 21 produced northerly with the northerly boundary of the said township of Finlayson;

THENCE westerly along the said northerly boundary to the northwest corner of the said township of Finlayson;

THENCE southerly along the westerly boundary to the southwest corner of the said township of Finlayson;

THENCE easterly along the southerly boundary to its intersection with the centre line of the original allowance for road between lots 20 and 21 produced southerly;

THENCE northerly to and along the said centre line of the original allowance for road between lots 20 and 21 and its production northerly to the point of commencement.

(6) The area municipality of the Township of Muskoka Lakes is divided into the following wards: Muskoka  
Lakes

1. Bala Ward — which shall comprise the area of the Town of Bala as it exists on the 1st day of July, 1970.
2. Cardwell Ward — which shall comprise the area of the Township of Cardwell as it exists on the 1st day of July, 1970.
3. Medora and Wood Ward — which shall comprise part of the Township of Medora and Wood being more particularly described as follows:

COMMENCING at a point on the west boundary of the Township of Medora at its intersection with the production westerly of the centre line of the road allowance between concessions IV and V for the said Township;

THENCE easterly along the centre line of the said road allowance and the production easterly thereof to a point in Lake Joseph measured easterly along the said production being distant 30 chains from its intersection with the production northerly of the division line between lots 16 and 17;

THENCE southeasterly through Lake Joseph along a straight line to a point on the southerly shore of its intersection with the division line between concessions III and IV at the rear of Lot 24;

THENCE easterly along the said division line and its production easterly to the production northerly of the centre line of the road allowance between lots 25 and 26;

THENCE southerly to and along the centre line of the said road allowance to the centre line of the road allowance and its production southerly between concessions E and F;

THENCE westerly along the centre line of the road allowance between concessions E and F to the east shore of North Bay of Lake Muskoka;

THENCE in a southeasterly direction following the said shore to the most southerly point of Mortimer's Point;

THENCE southeasterly in a straight line through Lake Muskoka to a point on the geographical boundary between the Township of Medora and Wood at its intersection with a line connecting a point on the south shore of East Bay of Lake Muskoka at its intersection with the centre line of the road allowance between lots 15 and 16 Concession V for the Township of Wood with a point on the north shore of Lake Muskoka at its intersection with the centre line of the road allowance between lots 30 and 31 in Concession D in the Township of Medora;

THENCE southeasterly along the said connecting line to the shore of East Bay of Lake Muskoka;

THENCE southerly along the centre line of the road allowance between lots 15 and 16 to its intersection with the centre line of the road allowance between concessions IX and X for the said Township of Wood;

THENCE westerly along the centre line of the road allowance between concessions IX and X and the production westerly thereof to its intersection with the western limit for the said Township of Wood;

THENCE northerly along the western limit of the said Township of Wood and the western limit of the said Township of Medora to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within Bala Ward.

4. Monck North Ward — which shall comprise part of the Township of Monck being more particularly described as follows:

COMMENCING at the northwest corner of the said Township;

THENCE easterly along the northerly boundary to its intersection with the production northerly of the east limit of Lot 5 Concession XIII;

THENCESoutherly to and along the easterly limit of Lot 5 to the intersection of the easterly limit of Lot 5 Concession V produced southerly with the centre line of the original allowance for road between concessions IV and V;

THENCE westerly along the said centre line of the original allowance for road between concessions IV and V to its intersection with the original high water mark of Lake Muskoka;

THENCE North 85° West through Lake Muskoka to its intersection with the production southerly of the centre line of the original allowance for road between lots 15 and 16 in Concession VI;

THENCE South 10° West through Lake Muskoka a distance of 43 chains;

THENCE North 80° West through Lake Muskoka between Pine and Birch Islands, 136 chains;

THENCE South 10° West through Lake Muskoka to its intersection with the boundary between the townships of Monck and Wood;

THENCE northwesterly along the boundary between the townships of Monck and Wood and the boundary between the townships of Monck and Medora to its intersection with the westerly boundary of the Township of Monck;

THENCE northerly along the said westerly boundary to the point of commencement.

5. Port Carling Ward — which shall comprise the area of the Village of Port Carling as it exists on the 1st day of July, 1970.
6. Medora North Ward — which shall comprise part of the Township of Medora and Wood being more particularly described as follows:

COMMENCING at the northwest angle of the Township of Medora;

THENCE southerly along the westerly limit of the said Township to its intersection with a production westerly of the centre line of the road allowance between concessions IV and V for the said Township;



THENCE easterly along the centre line of the road allowance between concessions IV and V and the production easterly thereof to a point in Lake Joseph, measured easterly along the said production and distant 30 chains from its intersection with the division line between lots 16 and 17 in Concession IV;

THENCE southeasterly through Lake Joseph on a straight line to a point on the southerly shore at its intersection with the division line between concessions III and IV at the rear of Lot 24;

THENCE easterly along the said division line and its production easterly to the production northerly of the centre line of the road allowance between lots 25 and 26;

THENCE southerly to and along the centre line of the road allowance and its production southerly to the centre line of the road allowance between concessions E and F;

THENCE westerly along the centre line of the road allowance between the said concessions E and F to the east shore of North Bay of Lake Muskoka;

THENCE in a southeasterly direction following the said shore to the most southerly point of Mortimer's Point;

THENCE southeasterly in a straight line through Lake Muskoka to a point on the geographical boundary between the Township of Medora and Wood at its intersection with a line connecting a point on the south shore of East Bay of Lake Muskoka at its intersection with the centre line of the road allowance between lots 15 and 16 Concession V for the Township of Wood with a point on the north shore of Lake Muskoka at its intersection with the centre line of the road allowance between lots 30 and 31 in Concession D in the Township of Medora;

THENCE in a general northeasterly direction through Lake Muskoka following the geographical boundary between the said Township of Medora and Wood and the boundary between Medora and Monck to its intersection with the north shore of Lake Muskoka being the most southeasterly angle of the boundary of the Village of Port Carling;

THENCE northwesterly, northerly and southeasterly following the boundary of the said Village of Port Carling to a point on the shore of Lake Rosseau at its intersection with the east boundary of the Township of Medora;

THENCE in a general northerly direction through Lake Rosseau following the eastern limit of the said Township of Medora to its intersection with the northerly limit of the said Township;

THENCE westerly along the northerly limit of the said Township to the point of commencement.

7. Watt Ward — which shall comprise the area of the Township of Watt as it exists on the 1st day of July, 1970.
8. Windermere Ward — which shall comprise the area of the Village of Windermere as it exists on the 1st day of July, 1970.
9. Wood South Ward — which shall comprise part of the townships of Medora and Wood being more particularly described as follows:

COMMENCING at a point in the westerly boundary of the Township of Wood at its intersection with the production westerly of the centre line of the road allowance between concessions IX and X of the said Township;

THENCE easterly along the centre line of the said road allowance to the centre line of the road allowance between lots 15 and 16;

THENCE northerly along the centre line of the road allowance between the said lots 15 and 16 to its intersection with the southerly shore of East Bay of Lake Muskoka;

THENCE northwesterly through Lake Muskoka along the straight line connecting the hereinbefore described point on the shore of East Bay with a point on the shore of Lake Muskoka at its intersection with the centre line of the road allowance between lots 30 and 31 for the Township of Medora to its intersection with the geographical boundary between the Township of Medora and Wood;

THENCE in a general northeasterly direction, following the geographical boundary between the Township of Medora and Wood through Lake Muskoka to its intersection with the geographical boundary between the townships of Wood and Muskoka;

THENCE northerly along the centre line of the road allowance between the said lots 15 and 16 to its intersection with the southerly shore of East Bay of Lake Muskoka;

THENCE northwesterly through Lake Muskoka along the straight line connecting the hereinbefore described point on the shore of East Bay with a point on the shore of Lake Muskoka at its intersection with the centre line of the road allowance between lots 30 and 31 for the Township of Medora, to its intersection with the geographical boundary between the Township of Medora and Wood;

THENCE in a general northeasterly direction, following the geographical boundary between the Township of Medora and Wood through Lake Muskoka to its intersection with the geographical boundary between the townships of Wood and Muskoka;

THENCE southwesterly, northwesterly and southwesterly following the boundary between the townships of Muskoka and Wood through Lake Muskoka to the original high water mark of Lake Muskoka;

THENCE westerly and southerly along the division line between the townships of Muskoka and Wood to the production northerly of Lot 9 Concession VI of the Township of Wood;

THENCE southerly to and along the easterly limit of Lot 9 in concessions XX, XIX, XVIII, XVII, XVI, XV, XIV, XIII, XII, XI, X, IX, VIII, VII and VI and its production to its intersection with the southerly boundary of the said Township of Wood;

THENCE westerly following the southerly boundary of the said Township of Wood to its intersection with the westerly limit of the said Township;

THENCE northerly along the westerly limit of the said Township being the easterly limit of the Township of Baxter and the Township of Gibson to the point of commencement.

*NOTE: All Bearings are astronomic and are referred to the meridian passing through the northeast corner of the Township of Monck.*

Ward representation on area councils

(7) On and after the 1st day of January, 1971, the council of each area municipality shall be composed of a mayor, who shall be elected by general vote and shall be the head of the council, and such other members elected in the wards in the area municipality as follows:

1. The Town of Bracebridge:

Bracebridge Ward.....	Three members
Draper Ward.....	One member
Macaulay Ward.....	One member
Monck South Ward.....	One member
Muskoka North Ward.....	One member
Oakley Ward.....	One member

2. The Township of Georgian Bay:

Baxter Ward.....	Two members
Freeman Ward.....	Two members
Gibson Ward.....	One member

3. The Town of Gravenhurst:

Gravenhurst Ward.....	Three members
Morrison Ward.....	Two members
Muskoka South Ward.....	Two members
Ryde Ward.....	One member

4. The Town of Huntsville:

Brunel Ward.....	One member
Chaffey Ward.....	Two members
Huntsville Ward.....	Two members
Port Sydney Ward.....	One member
Stephenson Ward.....	One member
Stisted Ward.....	One member

5. The Township of Lake of Bays:

Franklin Ward.....	Two members
McLean Ward.....	One member
Ridout Ward.....	One member
Sinclair Ward.....	One member

6. The Township of Muskoka Lakes:

Bala Ward.....	One member
Cardwell Ward.....	One member
Medora and Wood Ward.....	One member
Monck North Ward.....	One member
Port Carling Ward.....	One member
Medora North Ward.....	One member
Watt Ward.....	One member
Windermere Ward.....	One member
Wood South Ward.....	One member



First  
elections  
and terms  
of office

(8) Elections for the first council of each area municipality shall be held in the year 1970, and the day for polling shall be the 5th day of October and the first councils elected shall hold office for the years 1971 and 1972. 1970, c. 32, s. 3 (1-8).

Idem

(9) For the purposes of the elections of the first councils of the area municipalities,

(a) the Minister shall by order,

(i) fix the days, times and places of nominations and provide for the holding of nomination meetings, the appointment of returning officers, the holding of the election, the preparation of voters' lists, the qualifications of candidates, and

(ii) provide for all such other matters as he considers necessary to hold the elections; and

(b) persons who are qualified under clauses *a*, *b* and *c* of subsection 1 of section 37 of *The Municipal Act*, being chapter 249 of the Revised Statutes of Ontario, 1960, and are resident in a local municipality or part thereof within the District Area between the 1st day of January, 1970, and the day of the poll are entitled to be entered on the voters' list of the area municipality in which the local municipality or part is included in addition to those ordinarily so entitled. 1970, c. 32, s. 3 (9), *amended*.

Organiza-  
tion com-  
mittee in  
1970

(10) The members of the council of each area municipality elected in the year 1970 shall comprise a committee in their respective area municipalities to do anything in that year necessary for the purposes of organization, policy and planning of the area municipality.

Expenses  
of first  
elections

(11) The expenses of the local municipalities for the elections to elect members of the area municipalities in the year 1970 shall, as approved by the Minister, be paid out of the Consolidated Revenue Fund.

No elections,  
Port Sydney  
and  
Windermere

(12) Except as otherwise provided in this Act, no elections for council shall be held in the year 1970 in the villages of Port Sydney and Windermere and the incumbent councils thereof shall continue in office until the 31st day of December, 1970. 1970, c. 32, s. 3 (10-12).

Meetings  
of electors  
for nomina-  
tion of  
candidates  
and polling  
day

**4.—(1)** In every area municipality,

(a) meetings of electors for the nomination of candidates for council and for any local board, any members of which are to be elected by ballot by the electors, shall be held in the year 1972 and in every second year thereafter on the second Monday preceding the first Monday in December; and

(b) the day for polling in the year 1972 and in every second year thereafter shall be the first Monday in December, and the polls shall be open between the hours of 10 o'clock in the morning and 8 o'clock in the evening.

(2) The council of every area municipality, before the 1st day of November in the year 1972 and in every second year thereafter, shall pass a by-law naming the place or places and time or times at which the nomination meeting or meetings shall be held.

Place of nomination meeting

(3) The members of the council of each area municipality and such local boards, commencing with such councils and local boards which take office on the 1st day of January, 1973, shall hold office for a two-year term and until their successors are elected and the new council or board is organized.

Term of office

(4) Each area municipality shall be deemed to have passed a by-law providing for a resident voters' list under *The Municipal Franchise Extension Act*, and the assent of the electors as required therein shall be deemed to have been received. 1970, c. 32, s. 4.

Resident voters' list R.S.O. 1960, c. 254

PART II

INCORPORATION AND COUNCIL OF DISTRICT AREA

**5.**—(1) On the 19th day of October, 1970, the inhabitants of the District Area are hereby constituted a body corporate under the name of The District Municipality of Muskoka.

District Corporation constituted

(2) The District Corporation shall be deemed to be a municipality for the purposes of *The Department of Municipal Affairs Act* and *The Ontario Municipal Board Act*.

Deemed municipality under R.S.O. 1970, cc. 118, 323

(3) The District Municipality of Muskoka is for judicial purposes a provisional judicial district.

Provisional judicial district

(4) Nothing in this Act shall be deemed to alter the boundaries of any registry or land titles division. 1970, c. 32, s. 6.

Registry and land titles divisions not affected

**6.**—(1) The powers of the District Corporation shall be exercised by the District Council and, except where otherwise provided, the jurisdiction of the District Council is confined to the District Area.

District Council to exercise corporate powers

(2) Except where otherwise provided, the powers of the District Council shall be exercised by by-law.

Powers exercised by by-law

(3) A by-law passed by the District Council in the exercise of any of its powers and in good faith shall not be open to question or be quashed, set aside or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them. 1970, c. 32, s. 7.

Not to be quashed as unreasonable

Composition  
of District  
Council

**7.—**(1) The District Council shall consist of twenty-three members composed of a chairman and,

- (a) in the year 1970, the mayor-elect of each area municipality and thereafter the mayor of each area municipality;
- (b) three members elected by the council of the area municipality of the Town of Bracebridge as follows,
  - (i) one member elected to such council for Bracebridge Ward,
  - (ii) one member elected to such council for either Monck South Ward or Muskoka North Ward,
  - (iii) one member elected to such council for one of the wards of Draper, Macaulay or Oakley;
- (c) two members elected by the council of the area municipality of the Township of Georgian Bay as follows,
  - (i) one member elected to such council for Baxter Ward,
  - (ii) one member elected to such council for either Freeman Ward or Gibson Ward;
- (d) three members elected by the council of the area municipality of the Town of Gravenhurst as follows,
  - (i) one member elected to such council for Gravenhurst Ward,
  - (ii) one member elected to such council for Muskoka South Ward,
  - (iii) one member elected to such council for either Morrison Ward or Ryde Ward;
- (e) three members elected by the council of the area municipality of the Town of Huntsville as follows,
  - (i) one member elected to such council for Huntsville Ward,
  - (ii) one member elected to such council for Chaffey Ward,
  - (iii) one member elected to such council for one of the wards of Brunel, Port Sydney, Stephenson and Stisted;
- (f) two members elected by the council of the area municipality of the Township of Lake of Bays as follows,
  - (i) one member elected to such council for either Franklin Ward or Sinclair Ward,
  - (ii) one member elected to such council for either Ridout Ward or McLean Ward;
- (g) three members elected by the council of the area municipality of the Township of Muskoka Lakes as follows,

- (i) one member elected to such council for one of the wards of Bala, Port Carling or Windermere,
- (ii) one member elected to such council for one of the wards of Cardwell, Monck North or Watt,
- (iii) one member elected to such council for one of the wards of Medora and Wood, Medora North or Wood South.

(2) In the year 1970, the committee for each area municipality established by subsection 10 of section 3 shall meet on or before the 13th day of October, 1970, and shall elect the number of members to the District Council for such area municipality as provided by subsection 1 and the members so elected shall hold office for the years 1970, 1971 and 1972.

Method of  
election of  
District  
Council in  
1970

(3) In the year 1973 and in every second year thereafter, the council of each area municipality shall at its first meeting in each such year elect its members to the District Council. 1970, c. 32, s. 8.

Biennial  
election of  
District  
Council

**8.**—(1) The chairman shall be appointed by the Lieutenant Governor in Council before the 19th day of October, 1970, to hold office at pleasure during the years 1970 to 1974 inclusive and until his successor is elected or appointed in accordance with this Act, and the chairman appointed under this subsection shall be paid out of the Consolidated Revenue Fund such remuneration as the Lieutenant Governor in Council may determine.

Appoint-  
ment of first  
chairman

(2) At the first meeting of the District Council in the year 1975 and in every second year thereafter at which a quorum is present, the District Council shall organize as a council and elect as chairman one of the members of the District Council, or any other person, to hold office for that year and the following year and until his successor is appointed or elected in accordance with this Act, and at such meeting the clerk shall preside until the chairman is elected.

Election of  
chairman

(3) Where a member of the council of an area municipality becomes chairman, he shall be deemed to have resigned as a member of such council, and his seat on such council thereby becomes vacant.

Where  
chairman  
member of  
area council

(4) If, at the first meeting of the District Council in the year 1975 and any subsequent first meeting, a chairman is not elected, the presiding officer may adjourn the meeting from time to time, and, if a chairman is not elected at any adjourned meeting held within one week after the first meeting, the Lieutenant Governor in Council shall appoint a chairman to hold office for that year and the following year and until his successor is elected or appointed in accordance with this Act. 1970, c. 32, s. 9.

Failure to  
elect  
chairman



First  
meeting  
1970

**9.**—(1) The first meeting of the District Council in the year 1970 shall be held on or after the 19th day of October, 1970, at such date, time and place as the chairman may determine, and the chairman shall give to each person entitled to be a member of the District Council at least forty-eight hours notice of the date, time and place of the meeting and shall preside at the meeting.

First  
meeting  
of area  
councils

(2) Notwithstanding any general or special Act, the first meeting of the council of each area municipality in the year 1971 and in every second year thereafter shall be held not later than the 8th day of January.

First  
meeting of  
District  
Council

(3) The first meeting of the District Council in the year 1973 and in every second year thereafter shall be held after the councils of the area municipalities have held their first meetings in the year, but in any event not later than the 15th day of January, on such date and at such time and place as may be fixed by by-law of the District Council.

Certificate  
of qualifi-  
cation

(4) Subject to subsection 5, a person entitled to be a member of the District Council in accordance with section 7, other than the mayor of each area municipality, shall not take his seat as a member until he has filed with the person presiding at the first meeting of the District Council that he attends a certificate under the hand of the clerk of the area municipality that he represents and under the seal of such area municipality certifying that he is entitled to be a member under such section.

Idem

(5) A person entitled to be a member of the first District Council in accordance with section 7, other than a mayor-elect of an area municipality, shall not take his seat as a member until he has filed with the person presiding at the first meeting of the District Council that he attends a certificate under the hand of the mayor-elect of the area municipality that he represents certifying that he is entitled to be a member under such section.

Oath of  
allegiance,  
declaration  
of qualifi-  
cation

(6) The chairman, before taking his seat, shall take an oath of allegiance in Form 1 and a declaration of qualification in Form 2.

Declaration  
of office  
R.S.O. 1970,  
c. 284

(7) No business shall be proceeded with at the first meeting of the District Council until after the declarations of office in Form 20 of *The Municipal Act* have been made by all members who present themselves for that purpose.

When  
council  
deemed  
organized

(8) The District Council shall be deemed to be organized when the declarations of office have been made by a sufficient number of members to form a quorum as provided for in section 10. 1970, c. 32, s. 10.

Quorum  
voting

**10.**—(1) Twelve members of the District Council representing at least four area municipalities are necessary to form a quorum and the concurring votes of a majority of members present are necessary to carry any resolution or other measure.

(2) Subject to subsection 3, each member of the District Council has one vote only. One vote

(3) The chairman does not have a vote except in the event of an equality of votes. 1970, c. 32, s. 11. Chairman vote

**11.**—(1) When a vacancy occurs in the office of a chairman who has been appointed by the Lieutenant Governor in Council, some person shall be appointed by the Lieutenant Governor in Council to hold office as chairman for the remainder of the term of his predecessor. Vacancies, chairman

(2) Except as provided in subsection 1, when a vacancy occurs in the office of chairman, the District Council shall, at a general or special meeting to be held within twenty days after the vacancy occurs, elect a chairman who may be one of the members of the District Council, or any other person, to hold office for the remainder of the term of his predecessor. Idem

(3) If the District Council fails to elect a chairman within twenty days as required by subsection 1, the Minister may appoint a person as chairman to hold office for the remainder of the term of his predecessor. Idem

(4) When a vacancy occurs in the office of a member other than the chairman or the head of the council of an area municipality, the council of the area municipality from which he was elected shall by by-law within thirty days after the vacancy occurs appoint a successor, who is eligible to be elected a member of the District Council, to hold office for the remainder of the term of his predecessor. Other members

(5) Section 145 of *The Municipal Act*, except clauses *f*, *g* and *h*, applies to the District Council. When seat to become vacant R.S.O. 1970, c. 284

(6) In the event that the head of a council of an area municipality is for any reason unable to fulfil his duties as a member of the District Council for a period exceeding one month, the council of the area municipality may by by-law appoint one of its members as an alternate representative to the District Council who shall act in the place and stead of the head of council during his incapacity, but no such by-law shall have effect for a period longer than one month from its effective date. 1970, c. 32, s. 12. Where head of council incapacitated

**12.** Members of the District Council, including the chairman, may be paid for services performed on and after the 1st day of January, 1971, such annual and other remuneration as the District Council may determine. 1970, c. 32, s. 13. Remuneration

**13.** The District Council may from time to time establish such standing or other committees and assign to them such duties as it considers expedient. 1970, c. 32, s. 14. Committees

Procedural  
by-laws

**14.** The District Council may pass by-laws for governing the proceedings of the District Council and any of its committees, the conduct of its members and the calling of meetings. 1970, c. 32, s. 15.

Head of  
Council

**15.**—(1) The chairman is the head of the District Council and is the chief executive officer of the District Corporation.

Chief  
adminis-  
trative  
officer

(2) The District Council may by by-law appoint a chief administrative officer, who,

- (a) shall have such general control and management of the administration of the government and affairs of the District Corporation and perform such duties as the District Council by by-law prescribes;
- (b) shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them by by-law;
- (c) shall hold office during the pleasure of the District Council; and
- (d) shall receive such salary as the District Council by by-law determines.

Application  
of  
R.S.O. 1970,  
c. 284, s. 238

(3) Subsection 2 of section 238 of *The Municipal Act* applies to a chief administrative officer appointed under subsection 2. 1970, c. 32, s. 16.

Acting  
chairman

**16.** When the chairman is absent from the District Area or absent through illness, or refuses to act, the District Council may by resolution appoint one of its members to act in his place and stead, and such member shall have and may exercise all the rights, powers and authority of the chairman during such absence or refusal to act. 1970, c. 32, s. 17.

Application  
of  
R.S.O. 1970,  
c. 284

**17.**—(1) Sections 192, 193, 195, 197, 198, 259, 281, 282, 283, 284, 285, 286 and 390 of *The Municipal Act* apply *mutatis mutandis* to the District Corporation.

Idem

(2) Sections 190, 199, 200, 201 and 243 of *The Municipal Act* apply *mutatis mutandis* to the District Council and to every local board of the District Corporation. 1970, c. 32, s. 18.

Appoint-  
ment of  
clerk

**18.**—(1) The District Council shall appoint a clerk, whose duty it is,

- (a) to record truly without note or comment, all resolutions, decisions and other proceedings of the District Council;
- (b) if required by any member present, to record the name and vote of every member voting on any matter or question;

- (c) to keep in his office, or in the place appointed for that purpose, the originals of all by-laws and of all minutes of the proceedings of the District Council and its committees; and
- (d) to perform such other duties as may be assigned to him by the District Council.

(2) The District Council may appoint a deputy clerk who shall have all the powers and duties of the clerk. Deputy clerk

(3) When the office of clerk is vacant or the clerk is unable to carry on his duties, through illness or otherwise, the District Council may appoint an acting clerk *pro tempore* who shall have all the powers and duties of the clerk. Acting clerk

(4) The chairman appointed under subsection 2 of section 8 shall appoint an acting clerk who shall have all the powers and duties of the clerk for the purposes of the first meeting of the District Council in the year 1970 and thereafter until the District Council appoints a clerk or an acting clerk under this section. 1970, c. 32, s. 19. Acting clerk, first meeting

**19.**—(1) Any person may, at all reasonable hours, inspect any of the records, books or documents in the possession or under the control of the clerk, except interdepartmental correspondence and reports of officials of any department or of solicitors for the District Corporation made to the District Council or any of its committees, and the clerk within a reasonable time shall furnish copies of them or extracts therefrom certified under his hand and the seal of the District Corporation to any applicant on payment at the rate of 15 cents for every 100 words or at such lower rate as the District Council may fix. Minutes open to inspection

(2) The clerk shall keep an index book in which he shall enter the number and date of all by-laws passed by the District Council that affect land or the use thereof in the District Area but do not directly affect the title to land. Index of by-laws affecting land

(3) A copy of any record, book or document in the possession or under the control of the clerk, purporting to be certified under his hand and the seal of the District Corporation, may be filed and used in any court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court otherwise directs. 1970, c. 32, s. 20. Copies certified by clerk to be receivable in evidence

**20.**—(1) The District Council shall appoint a treasurer who shall keep the books, records and accounts, and prepare the annual financial statements of the District Corporation and Appointment of treasurer



preserve and file all accounts of the District Corporation and perform such other duties as may be assigned to him by the District Council.

Deputy  
treasurer

(2) The District Council may appoint a deputy treasurer who shall have all the powers and duties of the treasurer.

Acting  
treasurer

(3) When the office of treasurer is vacant or the treasurer is unable to carry on his duties, through illness or otherwise, the District Council may appoint an acting treasurer *pro tempore* who shall have all the powers and duties of the treasurer. 1970, c. 32, s. 21.

Receipt and  
disburse-  
ment of  
money

**21.**—(1) The treasurer shall receive and safely keep all money of the District Corporation, and shall pay out money to such persons and in such manner as the law in force in Ontario and the by-laws or resolutions of the District Council direct, provided that every cheque issued by the treasurer shall be signed by the treasurer and by some other person or persons designated for the purpose by by-law or resolution of the District Council, and any such other person before signing a cheque shall satisfy himself that the issue thereof is authorized.

Signing of  
cheques

(2) Notwithstanding subsection 1, the District Council may by by-law,

- (a) designate one or more persons to sign cheques in lieu of the treasurer; and
- (b) provide that the signature of the treasurer and of any other person authorized to sign cheques may be written or engraved, lithographed, printed or otherwise mechanically reproduced on cheques.

Petty cash  
fund

(3) The District Council may by by-law provide that the treasurer may establish and maintain a petty cash fund of an amount of money sufficient to make change and pay small accounts, subject to such terms and conditions as the by-law may provide.

When  
member may  
be paid

(4) Except where otherwise expressly provided by this Act, a member of the District Council shall not receive any money from the treasurer for any work or service performed or to be performed.

Treasurer's  
liability  
limited

(5) The treasurer is not liable for money paid by him in accordance with a by-law or resolution of the District Council, unless another disposition of it is expressly provided for by statute. 1970, c. 32, s. 22.

Bank  
accounts

**22.** Subject to subsection 3 of section 21, the treasurer shall,

- (a) open an account or accounts in the name of the District

Corporation in such of the chartered banks of Canada or at such other place of deposit as may be approved by the District Council;

- (b) deposit all money received by him on account of the District Corporation, and no other money, to the credit of such account or accounts, and no other account; and
- (c) keep the money of the District Corporation entirely separate from his own money and from that of any other person,

and, notwithstanding subsection 1 of section 21, the District Council shall not by by-law or resolution direct any variance from the provisions of this section, nor shall the treasurer vary from such provisions. 1970, c. 32, s. 23.

**23.**—(1) The treasurer shall prepare and submit to the District Council, monthly, a statement of the money at the credit of the District Corporation. Monthly statement

(2) Where the treasurer is removed from office or absconds, the District Council shall forthwith give notice to his sureties. 1970, c. 32, s. 24. Notice to sureties

**24.**—(1) The District Council shall by by-law appoint one or more auditors who shall be persons licensed by the Department as municipal auditors and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the District Council and the auditor or auditors so appointed shall audit the accounts and transactions of the District Corporation and of every local board of the District Corporation. Appointment of auditors

(2) Where an auditor audits the accounts and transactions of a local board, the cost thereof shall be paid by the District Corporation and charged back to the local board, and, in the event of a dispute as to the amount of the cost, the Department may upon application finally determine the amount thereof. Cost of audit

(3) No person shall be appointed as an auditor of the District Corporation who is or during the preceding year was a member of the District Council or of the council of an area municipality or of any local board, the accounts and transactions of which it would as auditor be his duty to audit, or who has or during the preceding year had any direct or indirect interest in any contract with the District Corporation or an area municipality or any such local board, or any employment with any of them other than as an auditor. Disqualification of auditors

Duties of  
auditors

(4) An auditor shall perform such duties as are prescribed by the Department and also such duties as may be required by the District Council or any local board of the District Corporation that do not conflict with the duties prescribed by the Department.

Audit of  
accounts  
before  
payment

(5) The District Council may provide that all accounts shall be audited before payment. 1970, c. 32, s. 25.

Application  
of  
R.S.O. 1970,  
c. 284

**25.**—(1) Sections 217, 223, 224, 229, 231, 232, 233 and 235, subsections 1, 4 and 5 of section 237, sections 238, 239, 245 and 250 and paragraphs 63, 64, 65, 66 and 67 of section 352 of *The Municipal Act* apply *mutatis mutandis* to the District Corporation.

Pensions

(2) Where the District Corporation or a local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the District Area, the District Corporation or local board thereof shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Part comes into force in respect of the employee if such employee was or was entitled to be a member of the Ontario Municipal Employees Retirement System on the day immediately preceding his employment with the District Corporation or local board thereof and such employee shall have uninterrupted membership or entitlement to membership, as the case may be, in the Ontario Municipal Employees Retirement System.

Idem

(3) Where the District Corporation or local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the District Area, the employee shall be deemed to remain an employee of the local municipality or local board thereof for the purposes of his entitlement under any approved pension plan.

Sick leave  
credits

(4) Where the District Corporation or local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the District Area, the employee shall be deemed to remain an employee of the municipality or local board thereof until the District Corporation or local board thereof has established a sick leave credit plan for its employees, and the employees are entitled to receive such benefits from the District Corporation, whereupon the District Corporation or local board thereof shall place to the credit of the employee the sick leave credits standing to his credit in the plan of the municipality or local board thereof.

Holidays

(5) Where the District Corporation or a local board thereof employs a person theretofore employed by a local municipality or

a local board thereof within the District Area, the District Corporation or local board thereof shall, during the first year of his employment by the District Corporation or local board thereof, provide for such employee's holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the municipality or local board thereof.

(6) The District Council shall offer to employ every person who, on the 1st day of April, 1970, is employed in any undertaking of any local municipality or local board that is assumed by the District Corporation under this Act. Offer of employment

(7) Any person who accepts employment offered under subsection 6 shall be entitled to receive a wage or salary up to and including the 31st day of December, 1971, of not less than that which he was receiving on the 1st day of April, 1970. Entitlement to salary

(8) The District Corporation shall be deemed to be a municipality for the purposes of *The Ontario Municipal Employees Retirement System Act*. Application of R.S.O. 1970, c. 324

(9) The employees of the local municipalities and the local boards thereof within the District Area, which are amalgamated or annexed in whole or in part to form an area municipality, who were employed by such a local municipality or local board on the 1st day of April, 1970, and continue to be so employed until the 31st day of December, 1970, except employees offered employment by the District Council under subsection 6, shall be offered employment by the council of the area municipality with which they are amalgamated or to which they are annexed and any person accepting employment under this subsection shall be entitled to receive a wage or salary, up to and including the 31st day of December, 1971, of not less than that which he was receiving on the 1st day of April, 1970. Offer of employment

(10) Any sick leave credits standing, on the 31st day of December, 1970, to the credit of any person who accepts employment under subsection 9 shall be placed to the credit of such employee in any sick leave credit plan established by the new employer. Sick leave credits

(11) Any person who accepts employment under subsection 9 shall be entitled to receive during the first year of his employment such holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the local municipality or local board by which he was formerly employed. Holidays

(12) Nothing in this section prevents any employer from terminating the employment of an employee for cause. 1970, c. 32, s. 26. Termination of employment



## PART III

## DISTRICT SEWAGE WORKS

Interpre-  
tation**26.**—(1) In this Part,

- (a) “capital improvement” means an addition to or an extension, enlargement, alteration, replacement or other improvement of a work of such nature or character that it is usually and properly accounted for as a capital asset;
- (b) “land drainage” means storm, surface, overflow, sub-surface or seepage waters or other drainage from land, but does not include sewage;
- (c) “sewage” means domestic sewage or industrial wastes, or both;
- (d) “sewage works” means an integral system consisting of a sewer or sewer system and treatment works;
- (e) “sewer” means a public sewer for common usage for the purpose of carrying away sewage or land drainage, or both;
- (f) “sewer system” means a system of two or more interconnected sewers having one or more common discharge outlets and includes pumping plant, force mains, siphons and other like work;
- (g) “treatment works” means buildings, structures, plant, machinery, equipment, devices, intakes and outfalls or outlets and other works designed for the treating of sewage or land drainage, or both, and includes the collecting, dispersing and disposing of sewage or land drainage as incidental thereto and land appropriated for such purposes and uses;
- (h) “work” means a sewer, sewer system, sewage works or treatment works, or a capital improvement of any of them.

Idem

(2) For the purpose of this Part, a sewer, sewer system or sewage works, whether existing or proposed, shall be deemed to be a trunk sewer, trunk sewer system or trunk sewage works, if so declared by by-law of the District Council. 1970, c. 32, s. 28.

General  
powers

**27.**—(1) For the purpose of collecting or receiving from the area municipalities, or any of them, sewage and land drainage and the treatment or disposal thereof, the District Corporation has all the powers conferred by any general Act upon a municipal corporation and by any special Act upon any local municipality or local board thereof within the District.

(2) The District Corporation shall not entrust the construction or the control and management of the district sewage works to a public utilities commission. 1970, c. 32, s. 29. Sewage works utilities commission prohibited

**28.** The District Council may pass by-laws for constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up trunk sewers, trunk sewer systems, trunk sewage works, treatment works and watercourses. 1970, c. 32, s. 30. Construction, etc., of trunk sewage works

**29.**—(1) The District Council shall, before the 31st day of December, 1970, pass by-laws which shall be effective on the 1st day of January, 1971, assuming as district sewage works all treatment works operated for, by or on behalf of each area municipality or any local board thereof and all rights and obligations of an area municipality or local board in relation to such works, and on the day any such by-law becomes effective all the real and personal property in relation to the works designated therein vests in the District Corporation. Assumption of treatment works

(2) The District Council may at any time pass by-laws for assuming any trunk sewer, trunk sewer system, or watercourse vested in any area municipality or local board thereof, but no such by-law becomes effective before the 1st day of January, 1971. Other works

(3) A by-law under subsection 1 or 2 shall designate and describe the works assumed. Idem

(4) Notwithstanding subsection 1, a by-law for assuming any specific treatment works may, with the approval of the Municipal Board, be passed after the 31st day of December, 1970, and in that case the by-law becomes effective on the date provided therein. Extension of time

(5) Where the District Corporation assumes a work or watercourse vested in an area municipality or local board, District liability

(a) no compensation or damages shall be payable to the area municipality or local board;

(b) the District Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debt of the area municipality in respect of such work or watercourse, but nothing in this clause requires the District Corporation to pay that portion of the amounts of principal and interest that under *The Local Improvement Act* is payable as the owners' share of a local improvement work. R.S.O. 1970, c. 255

(6) If the District Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the District Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. Default

Settling  
of doubts

(7) In the event of any doubt as to whether any outstanding debt or portion thereof is a debt in respect of the work or watercourse assumed, the Municipal Board, upon application, may determine the matter and its decision is final. 1970, c. 32, s. 31.

Existing  
agreements

**30.**—(1) Where any local municipality or a local board thereof within the District Area has agreed with any other municipality to receive sewage or land drainage from that other municipality, and the works or watercourses used or required in carrying out such agreement are assumed by the District Corporation, the District Corporation becomes liable to receive such sewage or land drainage in accordance with the agreement, and the area municipality or local board that would otherwise be bound by the agreement is relieved of all liability thereunder.

Idem

(2) Where any local municipality or a local board thereof within the District Area has agreed with any person other than a municipality to receive sewage or land drainage and the works or watercourses used or required in carrying out such agreement are assumed by the District Corporation, the District Corporation becomes liable to receive such sewage or land drainage in accordance with the agreement and the area municipality or local board that would otherwise be bound by the agreement is relieved of all liability thereunder.

Termination

(3) Notwithstanding subsections 1 and 2 and notwithstanding anything in any such agreement, the Municipal Board, upon the application of the District Council or of the council of any area municipality or of any person concerned, may by order terminate any such agreement and adjust all rights and liabilities thereunder. 1970, c. 32, s. 32.

Powers of  
area municipalities  
restricted

**31.**—(1) Where all the treatment works of an area municipality or any local board thereof are assumed by the District Corporation, the area municipality shall not thereafter establish, maintain or operate treatment works without the approval of the District Council.

Idem

(2) No area municipality shall establish or enlarge any treatment works after the 31st day of December, 1970, without the approval of the District Council. 1970, c. 32, s. 33.

Regulation  
of system

**32.** The District Council may pass by-laws for the maintenance and management of its sewers, sewer system, sewage works, treatment works and watercourses and regulating the manner, extent and nature of the reception and disposal of sewage and land drainage from the area municipalities and every other matter or thing related to or connected therewith that it may be necessary

and proper to regulate in order to secure to the inhabitants of the District Area an adequate system of sewage and land drainage disposal. 1970, c. 32, s. 34.

**33.**—(1) Where, in the opinion of the District Council, an area municipality or a portion thereof will or may derive a special benefit from the assumption or construction and operation of a work or watercourse, the District Council may, with the approval of the Municipal Board, at the time of authorizing the construction, extension or improvement of the work, and at any time in respect of the assumption of the work, by by-law provide that the area municipality shall be chargeable with and shall pay to the District Corporation such portion of the capital cost thereof as the by-law specifies, and such by-law is binding on the area municipality.

Special  
benefit

(2) When an area municipality receives a special benefit by the extension or improvement of a work and the capital cost of the work has already been apportioned by by-law, the Regional Council may with the approval of the Municipal Board repeal or amend any such by-law and reapportion the capital cost of such work among all the area municipalities which receive a special benefit therefrom.

Special  
benefit

(3) Where any debt is incurred for the cost of the work, the area municipality chargeable under the by-law shall make payments to the District Corporation with respect to such debt proportionate to its share of the capital cost as set out in the by-law in the same manner as if the debt for such share had been incurred by the District Corporation for the purposes of the area municipality.

Debt  
payments

(4) The area municipality may pay the amounts chargeable to it under this section out of its general funds or, subject to the approval of the Municipal Board, may pass by-laws under section 362 of *The Municipal Act* for imposing sewer rates to recover the whole or part of the amount chargeable to the area municipality in the same manner as if the work were being or had been constructed, extended or improved by the area municipality notwithstanding that in the by-law authorizing the work there was no provision for imposing, with the approval of the Municipal Board, upon owners or occupants of land who derive or will or may derive a benefit from the work a sewer rate sufficient to pay for the whole or a portion or percentage of the capital cost of the work. 1970, c. 32, s. 35.

Raising of  
money by  
area muni-  
cipality  
R.S.O. 1970,  
c. 284

**34.**—(1) No municipality or person shall connect any local work, local watercourse, private drain or private sewer to a district work or watercourse without the approval of the District Council.

Connecting  
to district  
works



Agreements  
with other  
municipalities

(2) The District Corporation may enter into a contract with any local, district or regional municipality outside the District Area to receive and dispose of sewage and land drainage from such municipality on such terms and conditions as may be agreed upon for any period not exceeding twenty years, and may renew such contract from time to time for further periods not exceeding twenty years at any one time.

Inspection

(3) Any engineer or other officer of the District Corporation has power to inspect the plans and specifications of any work referred to in subsection 1 and to inspect the work during its construction and before it is connected with the district work or watercourse. 1970, c. 32, s. 36.

Standards  
for local  
systems

**35.**—(1) The District Council may pass by-laws establishing standards for and regulating and governing the design, construction and maintenance of local works connected or to be connected to a district work or watercourse, and every area municipality and local board shall conform to such by-laws.

Approval  
of local  
extensions,  
etc.

(2) No area municipality or local board thereof shall enlarge, extend or alter any local work or watercourse that discharges into a district work or watercourse without the approval of the District Council. 1970, c. 32, s. 37.

Appeals

**36.** If the council of an area municipality considers itself aggrieved by the refusal of the District Corporation or the District Council,

- (a) to assume as a district work any local work;
- (b) to construct, extend or improve any district work;
- (c) to receive any required volume of sewage or land drainage from the area municipality;
- (d) to approve the construction, alteration, improvement or extension of a local work; or
- (e) to permit a connection or the continuance of a connection to any district work,

the council may appeal to the Municipal Board, which may make such order as it considers advisable in the matter, and the decision of the Municipal Board is final. 1970, c. 32, s. 38.

Special  
sewage  
service  
rates

**37.**—(1) The District Council may pass by-laws, providing for imposing on and collecting from any area municipality, in respect of the whole or any designated part or parts thereof from which sewage and land drainage is received, a sewage service rate or rates sufficient to pay such portion as the by-law may specify of the annual cost of maintenance and operation of any district work or works.

(2) All such charges constitute a debt of the area municipality to the District Corporation and shall be payable at such times and in such amounts as may be specified by by-law of the District Council.

Idem

(3) The area municipality may pay the amounts chargeable to it under any such by-law out of its general funds or may pass by-laws under section 362 of *The Municipal Act* for imposing sewage service rates to recover the whole or part of the amount chargeable to the area municipality. 1970, c. 32, s. 39.

Raising of money by area municipality  
R.S.O. 1970, c. 284

**38.** The District Council may contribute money, out of the fund established under subsection 3 of section 104, toward the cost to any area municipality of the separation of sanitary and storm sewers now in existence in the area municipality, the construction of which commenced on or after the 1st day of January, 1970, in such amount as it considers proper, not exceeding 25 per cent of the total cost thereof to the area municipality. 1970, c. 32, s. 40.

Contribution to costs of separation of combined sewers

**39.** The District Corporation has, in respect of all works assumed, all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise upon the area municipality or area municipalities or their local boards with respect to such works before they were assumed by the District Corporation and the District Corporation may sue upon such rights or under such by-laws or agreements in the same manner and to the same extent as the area municipality or municipalities or local board or boards might have done if such works had not been assumed. 1970, c. 32, s. 41.

Transfer of rights over works assumed

**40.** Any person authorized by the District Council has free access from time to time, upon reasonable notice given and request made, to all works within an area municipality and to all lands, buildings and premises used in connection therewith and the right, upon the like notice and request, to inspect and copy all plans, records and specifications and other information relating to the construction, extension or maintenance of such local works. 1970, c. 32, s. 42.

Inspection of local works

**41.** Any works assumed by the District Corporation under section 29, together with any extensions or additions thereto constructed by the District Corporation, may be used by the District Corporation for the purpose of receiving and disposing of sewage and land drainage from any or all of the area municipalities and, subject to subsection 2 of section 34, from any local or district municipality outside the District Area. 1970, c. 32, s. 43.

Use of district works

## PART IV

## HIGHWAYS

Interpre-  
tation**42.** In this Part,

- (a) "approved" means approved by the Minister or of a type approved by the Minister;
- (b) "construction" includes reconstruction;
- (c) "Department" means the Department of Highways;
- (d) "maintenance" includes repair;
- (e) "Minister" means the Minister of Highways;
- (f) "road authority" means a body having jurisdiction and control of a highway. 1970, c. 32, s. 45.

By-laws  
establishing  
district road  
system by  
June 30,  
1971

**43.—**(1) The District Council shall pass a by-law establishing a district road system and designating the roads to be included therein as district roads, and such by-law shall be submitted to the Minister not later than the 30th day of June, 1971.

By-law  
effective  
Jan. 1, 1972

(2) Notwithstanding subsection 10, the by-law passed under subsection 1, as approved by the Lieutenant Governor in Council, shall be effective on the 1st day of January, 1972.

Adding  
or removing  
roads by  
by-law

(3) The District Council may by by-law from time to time add roads to or remove roads from the district road system, including such boundary line roads or portions thereof between the District Area and an adjoining municipality as may be agreed upon between the District Council and the council of the adjoining municipality.

Transfer of  
provincial  
highway to  
District  
Corporation

(4) The Lieutenant Governor in Council may transfer any highway under the jurisdiction and control of the Department within the District Area to the District Corporation and the highway shall for all purposes be deemed to be part of the district road system on such date as is designated by the Lieutenant Governor in Council and to have been transferred under section 26 of *The Highway Improvement Act*.

R.S.O. 1970,  
c. 201Vesting of  
roads in  
District  
Corporation

(5) Every road or part thereof that forms part of the district road system and the jurisdiction and control and the soil and freehold thereof are vested in the District Corporation.

Removal of  
roads from  
the district  
road system

(6) The Lieutenant Governor in Council may remove any road from the district road system.

Roads  
removed  
from district  
road system

(7) Where a road or a part thereof is removed from the district road system, except by reason of it being stopped-up pursuant to section 54, such road or part is thereupon transferred to and the jurisdiction and control and the soil and freehold thereof is

thereupon vested in the area municipality in which it is situate, and the area municipality may sue upon any rights or under any agreements or by-laws in the same manner and to the same extent as the District Corporation in respect of such road.

(8) Notwithstanding subsection 10, where the District Corporation acquires land for the purpose of widening a district road, the land so acquired, to the extent of the designated widening, forms part of the road and is included in the district road system.

Status of  
land  
acquired for  
widening  
district road

(9) The District Council shall, on or before the 1st day of May, 1977, pass a by-law consolidating all by-laws relating to the district road system, and shall at intervals of not more than five years thereafter pass similar consolidating by-laws.

Consolidat-  
ing by-laws

(10) Every by-law passed under this section shall be submitted to the Minister for approval by the Lieutenant Governor in Council and the Lieutenant Governor in Council may approve the by-law in whole or in part and, where the by-law is approved in part only, it shall be in force and take effect only so far as approved, but it shall not be necessary for the District Council to pass any further by-law amending the original by-law or repealing any part thereof that has not been approved, and every such by-law as approved is in force and has effect after the day named by the Lieutenant Governor in Council. 1970, c. 32, s. 46.

Approval of  
by-laws by  
Lieutenant  
Governor in  
Council

**44.**—(1) The District Council shall adopt a plan of road construction and maintenance, and from time to time thereafter shall adopt such other plans as may be necessary.

Plan of  
construc-  
tion and  
maintenance

(2) The District Corporation shall submit a by-law covering the estimated expenditure on the district road system for the calendar year to the Minister for his approval, not later than the 31st day of March of the year in which the expenditure is to be made.

Submission  
of by-law  
covering  
estimated  
expenditure

(3) The District Corporation may, within the calendar year in which the expenditure is to be made, submit to the Minister for his approval a by-law covering the estimated expenditure on the district road system supplementing the by-law submitted under subsection 2.

Supple-  
mentary  
by-law

(4) No grant shall be made toward work undertaken by the District Corporation that has not been provided for by a by-law duly approved by the Minister. 1970, c. 32, s. 47.

Limit to  
grant

**45.** Where the District Corporation proposes the construction, improvement or alteration of a district road, it shall furnish the Minister with such detailed information as he may require. 1970, c. 32, s. 48.

Information  
to Minister



Annual  
statement  
to Minister

**46.**—(1) The District Corporation shall annually, and may, with the consent of the Minister at any time during the year, submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the person appointed under section 66 that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister and with the approval of the proper officer of the Department;
- (c) a declaration of the treasurer of the District Corporation that the statement of receipts and expenditures is correct; and
- (d) a request for the payment of the grant, authorized by resolution of the District Council.

Payment to  
District  
Corporation

(2) Upon receipt of the statement, declarations and request and the approval thereof by the proper officer of the Department, the Minister may direct payment to the treasurer of the District Corporation out of moneys appropriated therefor by the Legislature of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement, and in all cases of doubt or dispute the decision of the Minister is final.

Advance  
payments

(3) Notwithstanding subsection 2 but subject to section 44, the Minister may, in his discretion, direct payment to the District Corporation under this section on or after the 1st day of May in any year, of a sum not exceeding 25 per cent,

- (a) of the amount paid by the Minister under this section in respect of the preceding calendar year; or
- (b) of the average annual payments made by the Minister under this section in respect of the five preceding calendar years.

Payment for  
road  
improvement

(4) Notwithstanding subsection 2, where a plan of construction and maintenance of the district road system has been submitted to and approved by the Minister, the Minister may, upon consideration of the estimated money needs and the financial capability of the District Corporation, direct payment to the treasurer of the District Corporation out of the moneys appropriated therefor by the Legislature of such amount as he considers requisite but not exceeding 80 per cent of the amount of the expenditure that is properly chargeable to road improvement, and in all cases of doubt or dispute the decision of the Minister is final.

(5) Where a contribution has been made from any source whatsoever towards an expenditure to which this section applies, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. 1970, c. 32, s. 49.

Contribution towards expenditures

**47.** The roads included in the district road system shall be maintained and kept in repair by the District Corporation, and in all cases the Minister shall determine the amount of expenditure that is properly chargeable to road improvement, and his decision is final. 1970, c. 32, s. 50.

Expenditures for construction, maintenance or repair

**48.** The District Corporation has, in respect of the roads included in the district road system, all the rights, powers, benefits and advantages conferred, and is subject to all liabilities imposed, either by statute, by-law, contract or otherwise upon the corporation of the area municipality or the corporations of two or more area municipalities which had jurisdiction over the roads before they became part of the district road system, and the District Corporation may sue upon such rights or under such contracts or by-laws in the same manner and to the same extent as the area municipality or municipalities might have done if the roads had not become part of the district road system. 1970, c. 32, s. 51.

Powers over roads in district road system

**49.**—(1) The District Corporation is not by reason of a road forming part of the district road system under this Act liable for the construction or maintenance of sidewalks on any road or portion thereof in the district road system, but the area municipality in which such sidewalks are located continues to be liable for the maintenance of such sidewalks and is responsible for any injury or damage arising from the construction or presence of the sidewalks on such road or portion thereof to the same extent and subject to the same limitations to which an area municipality is liable under section 427 of *The Municipal Act* in respect of a sidewalk on a road over which a council has jurisdiction.

Sidewalks excepted

R.S.O. 1970, c. 284

(2) An area municipality may construct a sidewalk, storm sewer or other improvement or service on a district road, and the District Corporation may contribute to the cost of such sidewalk, storm sewer, improvement or service, but no such work shall be undertaken by an area municipality without first obtaining the approval of the District Council.

Area municipalities may construct sidewalks, etc.

(3) The cost of any such sidewalk, storm sewer, improvement or service constructed on a district road may be met out of the general funds of the area municipality or the work may be undertaken in whole or in part as a local improvement under *The Local Improvement Act*.

How cost provided

R.S.O. 1970, c. 255

Area municipalities to conform to requirements and be responsible for damages

(4) An area municipality when constructing such a sidewalk, storm sewer, improvement or service on a district road shall conform to any requirements or conditions imposed by the District Council, and is responsible for any injury or damage arising from the construction or presence of the sidewalk, improvement or service on the road.

R.S.O. 1970  
c. 201, s. 97  
subs. 4, not  
to apply

(5) Subsection 4 of section 97 of *The Highway Improvement Act* does not apply to a sidewalk constructed on a district road by the council of a township. 1970, c. 32, s. 52.

Installation  
of traffic  
control  
devices

**50.**—(1) The District Corporation may construct, install, maintain, or remove any works on a highway, other than a road under the jurisdiction and control of the Department, including traffic control devices, for the purpose of altering or regulating the flow of traffic upon entering or leaving a road in the district road system.

Relocation  
of inter-  
secting  
roads

(2) The District Corporation may relocate, alter or divert any public road, other than a road under the jurisdiction and control of the Department, entering or touching upon or giving access to a road in the district road system.

Idem

(3) Where, in relocating, altering or diverting a public road under subsection 2, the District Corporation constructs a new road in lieu of the public road, the District Corporation may close the public road at the point of intersection with the district road and may vest the new road and the soil and freehold and jurisdiction and control thereof in the area municipality in which it is situate.

Construction  
of storm  
sewer, etc.,  
on area  
municipality  
road

R.S.O. 1970,  
c. 255

(4) Where the District Corporation constructs a sidewalk, storm sewer, improvement or service on a road under the jurisdiction and control of an area municipality, the area municipality may contribute to the cost of such sidewalk, storm sewer, improvement or service and the work may be undertaken in whole or in part under *The Local Improvement Act*. 1970, c. 32, s. 53.

Intersection  
of other  
roads by  
district  
roads

**51.** Where a district road intersects a road that is under the jurisdiction and control of an area municipality, the continuation of the district road to its full width across the road so intersected is a part of the district road system. 1970, c. 32, s. 54.

Dedication  
of lands  
abutting  
regional  
roads for  
widening  
purposes

**52.** When land abutting on a district road is dedicated for, or apparently for, widening the district road, the land so dedicated is part of the district road and the jurisdiction and control and the soil and freehold thereof is vested in the District Corporation subject to any rights in the soil reserved by the person who dedicated the land. 1970, c. 32, s. 55.

**53.** The District Council may pass by-laws for establishing and laying out new roads and for amending the by-law passed under section 43 by adding such new roads to the district road system, and the provisions of *The Municipal Act* with respect to the establishment and laying out of highways by municipalities apply *mutatis mutandis*. 1970, c. 32, s. 56.

New roads

R.S.O. 1970,  
c. 284

**54.** With respect to the roads in the district road system and the regulation of traffic thereon, the District Corporation has all the powers conferred, and is subject to all the liabilities imposed, upon the council or corporation of a city by *The Municipal Act*, *The Highway Traffic Act* and any other Act with respect to highways. 1970, c. 32, s. 57.

Powers and  
liabilities of  
District  
CorporationR.S.O. 1970,  
cc. 284, 202

**55.**—(1) The District Council may by by-law prohibit or regulate the placing or erecting of,

Erection of  
gasoline  
pump and  
advertising  
device near  
district road

(a) any gasoline pump within 150 feet of any limit of a district road; and

(b) any sign, notice or advertising device within one-quarter mile of any limit of a district road.

(2) A by-law passed under this section may provide for the issuing of permits for the placing or erecting of any gasoline pump, sign, notice or advertising device and may prescribe the form, terms and conditions thereof and the fees to be paid therefor. 1970, c. 32, s. 58.

Permits

**56.**—(1) No by-law passed by an area municipality for the regulation of traffic on a highway under the jurisdiction and control of the area municipality, except a by-law for the regulation of parking, shall come into force until it has been approved by the District Council before it is submitted for approval under *The Highway Traffic Act*.

By-laws  
of area  
municipi-  
palities  
regulating  
trafficR.S.O. 1970,  
c. 202

(2) All signal-light traffic control devices heretofore or hereafter erected on a highway under the jurisdiction and control of an area municipality shall be operated, or erected and operated, in the manner prescribed by by-law of the District Council, and the District Council may delegate any of its powers in respect of the operation of such devices to an officer of the District Corporation designated in the by-law.

Signal-  
light devices

(3) The District Corporation may contribute towards the cost of the erection of signal-light traffic control devices erected by an area municipality.

Contribu-  
tion toward  
cost of  
signal-lights



Traffic control within 100 ft. of district roads

(4) Subject to *The Highway Traffic Act*, the District Council may pass by-laws to regulate traffic on any highway under the jurisdiction and control of an area municipality for a distance of 100 feet on either side of the limit of a district road, and, where there is any conflict between such a by-law and a by-law of an area municipality, the by-law passed under this subsection prevails to the extent of such conflict. 1970, c. 32, s. 59.

Agreement for pedestrian walks

**57.** The District Council may by by-law authorize agreements between the District Corporation and the owners or lessees of land abutting on a highway for the construction, maintenance and use of walks for pedestrians over, across or under the highway upon such terms and conditions as may be agreed and for contributing to the whole or any part of the cost thereof, and for leasing or licensing the use of untravelled portions of such walks and adjoining lands to persons for such considerations and upon such terms and conditions as may be agreed. 1970, c. 32, s. 60.

Disputes as to maintenance, etc., of bridges and highways  
R.S.O. 1970, c. 284

**58.—**(1) Sections 436 and 438 of *The Municipal Act* do not apply to a bridge or highway crossing or forming a boundary between the District Area and an adjoining municipality where such bridge or highway is included in the district road system and in the road system of the municipality.

Idem

(2) When there is a difference between the District Council and the council of a municipality in respect of any such bridge or highway as to the corporation upon which the obligation rests for the constructing or maintaining of the bridge or highway, or as to the proportions in which the corporations should respectively contribute thereto, or where the District Council and the council of the municipality are unable to agree as to any action, matter or thing to be taken or done in respect of such bridge or highway, every such difference shall be determined by the Municipal Board upon an application by the District Corporation or the corporation of the municipality.

Hearing by O.M.B.

(3) The Municipal Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality and of the District Corporation, and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities in regard to such bridge or highway, and the Municipal Board may make such order with respect to the same as it may consider just and proper, and may by the order fix and determine the amount or proportion that each municipality shall pay or contribute towards the building and maintaining of such bridge or highway.

Term of order

(4) An order made by the Municipal Board under this section is binding upon the municipalities for such period as the Municipal Board may determine, and is final and conclusive. 1970, c. 32, s. 61.

**59.** Clause *b* of subsection 1 of section 403 of *The Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between area municipalities, and the councils of the area municipalities on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the district road system. 1970, c. 32, s. 62.

Boundary bridges between area municipalities  
R.S.O. 1970, c. 284

**60.** Section 418 of *The Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between the District Area and an adjoining municipality, and the councils of the area municipality and the adjoining local municipality on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the district road system. 1970, c. 32, s. 63.

Boundary bridges between District Area and adjoining municipality

**61.**—(1) The District Council has, with respect to all land lying within a distance of 150 feet from any limit of a district road, all the powers conferred on the council of a local municipality by section 35 of *The Planning Act*.

Restrictions  
R.S.O. 1970, c. 349

(2) In the event of conflict between a by-law passed under subsection 1 by the District Council and a by-law passed under section 35 of *The Planning Act* or a predecessor of such section by the council of a local municipality that is in force in the area municipality in which the land is situate, the by-law passed by the District Council prevails to the extent of such conflict. 1970, c. 32, s. 64.

Conflict with local by-law

**62.**—(1) The District Council may by by-law designate any road in the district road system, or any portion thereof, as a controlled-access road.

Controlled-access roads

(2) Subject to the approval of the Municipal Board, the District Council may by by-law close any municipal road that intersects or runs into a district controlled-access road.

Closing municipal roads

(3) The Municipal Board may direct that notice of any application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons as the Municipal Board may determine, and may further direct that particulars of objections to the closing shall be filed with the Municipal Board and the District Corporation within such time as the Municipal Board shall direct.

Notice of application for approval for closing road

(4) Upon the hearing of the application for approval of the closing of a road, the Municipal Board may make such order as it considers proper refusing its approval or granting its approval upon such terms and conditions as it considers proper, and any order of the Municipal Board approving of the closing of a road may contain provisions,

Order of O.M.B.

- (a) determining the portion or portions of the road that shall be closed;
- (b) providing for the payment of the costs of any person appearing on such application and fixing the amount of such costs; and
- (c) providing for the doing of such other acts as in the circumstances it considers proper.

Closing  
road

(5) Upon the approval of the Municipal Board being so obtained but subject to the provisions of the order of the Municipal Board made on the application for such approval, the District Corporation may do all such acts as may be necessary to close the road in respect of which the application is made.

Idem

(6) Where, at any time after making application for the approval of the Municipal Board of the closing of a road, the District Corporation discontinues its application or, having obtained such approval, does not proceed with the closing of the road, the Municipal Board may, upon the application of any person whose land would be injuriously affected by the closing of the road and who has appeared upon such application for approval, make such order as to costs against the District Corporation as it considers proper and may fix the amount of such costs.

Appeal

(7) Any person who claims to be injuriously affected by the closing of a road may, by leave of the Court of Appeal, appeal to that court from any order of the Municipal Board approving the closing of such road, and the District Corporation may, upon like leave, appeal from any order of the Municipal Board made on an application under this section.

Leave to  
appeal

(8) The leave may be granted on such terms as to the giving of security for costs and otherwise as the court may consider just. 1970, c. 32, s. 65 (1-8).

Practice  
and pro-  
cedure on  
appeal

(9) The practice and procedure as to the appeal and matters incidental thereto shall be the same, *mutatis mutandis*, as upon an appeal from a county court. 1970, c. 32, s. 65 (9), *amended*.

R.S.O. 1970,  
c. 323, s. 95  
not to  
apply

(10) Section 95 of *The Ontario Municipal Board Act* does not apply to any appeal under this section. 1970, c. 32, s. 65 (10).

Private  
roads, etc.,  
opening  
upon con-  
trolled-  
access roads

**63.**—(1) Subject to the approval of the Municipal Board, the District Council may pass by-laws prohibiting or regulating the construction or use of any private road, entranceway, structure or facility as a means of access to a district controlled-access road.

Notice

(2) The District Corporation may give notice to the owner of any land requiring him to close up any private road, entranceway, structure, or facility constructed or used as a means of access to a

district controlled-access road in contravention of a by-law passed under subsection 1.

(3) Every notice given under subsection 2 shall be in writing and shall be served personally or by registered mail, and in the case of service by registered mail shall be deemed to have been received on the second day following the mailing thereof. Service of notice

(4) Where the person to whom notice is given under subsection 2 fails to comply with the notice within thirty days after its receipt, the District Council may by resolution direct any officer, employee or agent of the District Corporation to enter upon the land of such person and do or cause to be done whatever may be necessary to close up the private road, entranceway, structure or facility as required by the notice. Failure to comply with notice

(5) Every person who fails to comply with a notice given under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence. Offence

(6) Where a notice given under subsection 2 has been complied with, no compensation is payable to the owner of the land unless the private road, entranceway, structure or facility constructed or used as a means of access to a district controlled-access road was constructed or used, as the case may be, Compensation

(a) before the day on which the by-law designating the road as a district controlled-access road became effective; or

(b) in compliance with a by-law passed under subsection 1 in which case the making of compensation is subject to any provisions of such by-law. 1970, c. 32, s. 66.

**64.**—(1) Where the District Corporation adds to the district road system any road in an area municipality, no compensation or damages shall be payable to the area municipality in which it was vested. District liability when road added

(2) Where a road has been added to the district road system by a by-law passed under subsection 3 of section 43, the District Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debt of the area municipality in respect of such road, but nothing in this subsection requires the District Corporation to pay that portion of the amounts of principal and interest that under *The Local Improvement Act* is payable as the owners' share of a local improvement work. Idem R.S.O. 1970, c. 255

(3) If the District Corporation fails to make any payment as required by subsection 2, the area municipality may charge the District Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. Default



Settling  
of doubts

(4) In the event of any doubt as to whether any outstanding debt or portion thereof is a debt in respect of the road added to the district road system, the Municipal Board, upon application, may determine the matter and its decision is final. 1970, c. 32, s. 67.

Stopping up  
highways

**65.**—(1) Where an area municipality intends to stop up a highway or part of a highway, it shall notify by registered mail the District Corporation of its intention.

Agreement

(2) If the District Council objects to such stopping up, it shall notify the council of the area municipality by registered mail within sixty days of the receipt of the notice required under subsection 1 and the highway or part thereof shall not be stopped up except by agreement between the area municipality and the District Council and failing agreement the Municipal Board, upon application, may determine the matter and its decision is final. 1970, c. 32, s. 68.

Appoint-  
ment of  
district  
roads  
engineer  
R.S.O. 1970,  
c. 366

**66.** The District Council shall by by-law appoint a person, who is a professional engineer registered as a civil engineer under *The Professional Engineers Act*, to administer and manage the district road system. 1970, c. 32, s. 69.

Applica-  
tion of  
R.S.O. 1970,  
c. 202

**67.** Sections 92, 94, 96, 99 and 102 of *The Highway Improvement Act* apply *mutatis mutandis* with respect to any road in the district road system. 1970, c. 32, s. 70.

## PART V

### PLANNING

Planning  
area  
R.S.O. 1970,  
c. 349

**68.**—(1) On and after the 1st day of January, 1971, the District Area is defined as, and shall continue to be, a joint planning area under *The Planning Act* to be known as the Muskoka Planning Area.

Designated  
muni-  
cipality

(2) The District Corporation is the designated municipality within the meaning of *The Planning Act* for the purposes of the Muskoka Planning Area.

Planning  
areas  
dissolved

(3) All planning areas and subsidiary planning areas that are included in the Muskoka Planning Area, together with the boards thereof, are hereby dissolved on the 31st day of December, 1970.

Area muni-  
cipalities

(4) Each area municipality is constituted a subsidiary planning area effective the 1st day of January, 1971, and the council may establish a planning board for the area municipality in accordance with *The Planning Act* otherwise the council shall be the planning board.

(5) Nothing in subsections 3 and 4 affects any official plan in Proviso effect in any part of the District Area.

(6) When the Minister has approved an official plan adopted by the District Council, Effect of official plan

- (a) every official plan and every by-law passed under section 35 of *The Planning Act* or a predecessor thereof R.S.O. 1970, c. 349 then in effect in the planning area affected thereby shall be amended forthwith to conform therewith; and
- (b) no official plan of a subsidiary planning area shall be approved that does not conform therewith. 1970, c. 32, s. 72.

**69.**—(1) The District Council shall investigate and survey the physical, social and economic conditions in relation to the development of the Muskoka Planning Area and may perform such other duties of a planning nature as may be referred to it by any council having jurisdiction in the Muskoka Planning Area, and without limiting the generality of the foregoing it shall, Planning duties of District Council

- (a) prepare maps, drawings, texts, statistical information and all other material necessary for the study, explanation and solution of problems or matters affecting the development of the Muskoka Planning Area;
- (b) hold public meetings and publish information for the purpose of obtaining the participation and co-operation of the inhabitants of the Muskoka Planning Area in determining the solution of problems or matters affecting the development of the Muskoka Planning Area; and
- (c) consult with any local board having jurisdiction within the Muskoka Planning Area.

(2) The District Council, before the 31st day of December, 1974, shall prepare, adopt and forward to the Minister for approval an official plan for the District Area, and the council of each area municipality shall within two years thereafter adopt and forward to the Minister for approval an official plan for the area municipality. Official plan

(3) The District Council shall appoint such planning staff as may be considered necessary. Planning staff

(4) The District Council and the council of any area municipality may each appoint such advisory planning committees as it considers necessary. Advisory committee

(5) Subject to this Part, the District Corporation shall be deemed to be a municipality and the District Council a planning board for the purposes of section 1, subsections 4, 6 and 7 of section 2, sections 5, 13, 14, 15, 16, 17, 19, 20, 21, 25, 26, 27, 33, 43 and 44 of *The Planning Act*. District Corporation deemed municipality under

Idem  
R.S.O. 1970,  
c. 349

(6) The District Council shall be deemed to be a county for the purposes of clause *d* of subsection 1 and clause *b* of subsection 3 of section 29 and section 39 of *The Planning Act*.

Agreements  
re plans  
of sub-  
division

(7) The District Corporation may enter into agreements with area municipalities or persons relating to approval of plans of subdivision.

Agreements  
re special  
studies

(8) The District Corporation, with the approval of the Minister, may enter into agreements with any governmental authority, or any agency thereof created by statute, for the carrying out of studies relating to the Muskoka Planning Area or any part thereof.

Delegation  
of Minister's  
powers

(9) The Lieutenant Governor in Council may, upon the recommendation of the Minister, delegate to the District Council any of the Minister's powers of approval under *The Planning Act*.

Committees  
of adjust-  
ment

(10) All committees of adjustment heretofore constituted by the council of a local municipality in the Muskoka Planning Area are hereby dissolved on the 31st day of December, 1970, and the council of each area municipality shall forthwith after the 1st day of January, 1971, pass a by-law constituting and appointing a committee of adjustment under section 41 of *The Planning Act*. 1970, c. 32, s. 73.

Application  
of  
R.S.O. 1970,  
c. 349

**70.** Except as provided in this Part, the provisions of *The Planning Act* apply. 1970, c. 32, s. 74.

## PART VI

### HEALTH AND WELFARE SERVICES

Liability for  
hospitaliza-  
tion of  
indigents  
R.S.O. 1970,  
cc. 378, 361

**71.—(1)** The District Corporation shall be deemed to be a city for all the purposes of the provisions of *The Public Hospitals Act* and *The Private Hospitals Act* respecting hospitalization and burial of indigent persons and their dependants, and no area municipality has any liability under such provisions.

Existing  
liabilities  
transferred

(2) The District Corporation is liable for the hospitalization and burial, after the 31st day of December, 1970, of an indigent person or his dependant who was in hospital on the 31st day of December, 1970, and in respect of whom any local municipality within the District Area was liable because the indigent person was a resident of such local municipality.

(3) Nothing in subsection 2 relieves any such local municipality from any liability in respect of hospitalization or burials before the 1st day of January, 1971. Proviso

(4) The 1971 indigent hospitalization grant payable under section 8 of *The Municipal Unconditional Grants Act* shall be calculated on the combined expenditures incurred by any such local municipality, for the purposes mentioned in such section 8 in the year 1970 and shall be paid to the District Corporation. 1970, c. 32, s. 76. Hospitalization grant 1971 under R.S.O. 1970, c. 293

**72.** The District Council may pass by-laws for granting aid for the construction, erection, establishment, acquisitions, maintenance, equipping and carrying on the business of public hospitals including municipal hospitals, public sanatoria, municipal isolation hospitals and other health care facilities in the District Area and may issue debentures therefor. 1970, c. 32, s. 77. Aid to hospitals

**73.** On and after the 1st day of January, 1971, the District Area shall continue to be part of the health unit established under *The Public Health Act* known as the Muskoka-Parry Sound Health Unit. 1970, c. 32, s. 78. District Area part of Muskoka-Parry Sound Health Unit R.S.O. 1970, c. 377

**74.** The representation of the District Area on the board of health of the Muskoka-Parry Sound Health Unit shall comprise one member of the council of each area municipality, who is also a member of the District Council, appointed by the District Council. 1970, c. 32, s. 79. Representation on board of health

**75.—(1)** For the purposes of the following Acts, the District Corporation shall be deemed to be a city and no area municipality shall be deemed to be a municipality: District Corporation deemed city under R.S.O. 1970, cc. 21, 270, 422, 491

1. *The Anatomy Act.*
2. *The Mental Hospitals Act.*
3. *The Sanatoria for Consumptives Act.*
4. *The War Veterans Burial Act.*

(2) For the purposes of the following Acts, the District Corporation shall be deemed to be a county and no area municipality shall be deemed to be a municipality: District Corporation deemed county under R.S.O. 1970, cc. 104, 192, 203

1. *The Day Nurseries Act.*
2. *The General Welfare Assistance Act.*
3. *The Homemakers and Nurses Services Act.* 1970, c. 32, s. 80.



Liability  
respecting  
homes for  
the aged  
R.S.O. 1970,  
c. 206

**76.**—(1) The District Corporation shall be deemed to be a county for the purposes of *The Homes for the Aged and Rest Homes Act*, and no area municipality has any authority as to the establishment, erection and maintenance of a home for the aged under such Act.

Application

(2) Section 16 of *The Homes for the Aged and Rest Homes Act* applies in respect of applicants for admission to a home except that the authorization and statement in the prescribed forms referred to in clauses *e* and *h* of subsection 1 of such section 16 shall be signed by such person or persons as may be designated by resolution of the District Council. 1970, c. 32, s. 81.

Dissolution  
of Board of  
Manage-  
ment,  
district  
home vested  
in District  
Corporation

**77.**—(1) On the 1st day of January, 1971, the District of Muskoka Homes for the Aged Board of Management is hereby dissolved and all the assets and liabilities thereof, including the home for the aged known as The Pines and all real and personal property used for the purposes of such home are vested in the District Corporation, and no compensation or damages shall be payable to such Board of Management in respect thereof.

Residents of  
Nipissing  
Home for  
the Aged

(2) The District Corporation shall pay to the Board of Management of Nipissing Home for the Aged the cost of maintenance in the Nipissing Home for the Aged, incurred after the 31st day of December, 1970, of every resident of that home who was admitted thereto due to residence in an area that becomes part of any area municipality.

Amount of  
maintenance  
payment

(3) The amount payable by the District Corporation under subsection 2 shall be such as may be agreed upon or, failing agreement, as may be determined by the Municipal Board. 1970, c. 32, s. 82.

District  
Corporation  
deemed  
county  
under R.S.O.  
1970, c. 64

**78.** No area municipality shall be deemed to be a municipality for the purposes of *The Child Welfare Act* and the District Corporation shall be deemed to be a county for the purposes of such Act and a city for the purposes of subsection 2 of section 45 of such Act. 1970, c. 32, s. 83.

Existing  
liabilities  
transferred  
1965, c. 14

**79.** The District Corporation is liable for the amounts payable on or after the 1st day of January, 1971, by any area municipality under section 88 of *The Child Welfare Act, 1965*, and is entitled to recover the amounts payable to any area municipality on or after that date under that section. 1970, c. 32, s. 84.

Liability  
under order  
made under  
R.S.C. 1952,  
c. 160

**80.** Where an order is made under subsection 2 of section 20 of the *Juvenile Delinquents Act* (Canada) upon an area municipality, such order shall be deemed to be an order upon the District Corporation, and the sums of money required to be paid under such order shall be paid by the District Corporation and not by the area municipality. 1970, c. 32, s. 85.

**81.** Every area municipality and every officer or employee thereof shall, at the request of the officers of the District Corporation who are responsible for the administration of the Acts referred to in this Part, furnish forthwith to such officers any information they may require for the purposes of this Part. 1970, c. 32, s. 86. Information

**82.** In the event that there is any doubt as to whether the District Corporation is liable under this Part in respect of the liabilities imposed herein, the matter may be settled by agreement between the municipalities concerned or, failing agreement, may be determined by the Municipal Board. 1970, c. 32, s. 87. Adjustments

**83.** The District Corporation may grant aid to approved corporations established under *The Homes for Retarded Persons Act*, and may enter into agreements with any of such corporations with respect to the construction, operation and maintenance of homes for retarded persons. 1970, c. 32, s. 88. Grants to approved corporations under R.S.O. 1970, c. 204

## PART VII

### POLICE

**84.**—(1) On and after the 1st day of January, 1971, *The Police Act*, except section 68, and sections 345 and 346 of *The Municipal Act* do not apply to any area municipality. Application of R.S.O. 1970, cc. 351, 284

(2) The District Corporation shall be deemed to be a municipality for the purposes of section 68 of *The Police Act*. District Corporation deemed municipality for R.S.O. 1970, c. 351, s. 68

(3) On and after the 9th day of May, 1970, *The Police Act*, except section 68, and sections 345 and 346 of *The Municipal Act* do not apply to the Town of Gravenhurst. 1970, c. 32, s. 90. Application to Town of Gravenhurst

**85.** All police functions, other than the enforcement of by-laws of the District Council or of the council of any area municipality, shall, on and after the 1st day of January, 1971, be undertaken by the Ontario Provincial Police in the District Area. 1970, c. 32, s. 91. O.P.P. to undertake police functions in District Area

**86.** All police functions, other than the enforcement of municipal by-laws, shall, on and after the 9th day of May, 1970, be undertaken by the Ontario Provincial Police in the Town of Gravenhurst. 1970, c. 32, s. 92. O.P.P. to undertake police functions in 1970 in Town of Gravenhurst

Liaison  
Committee

**87.** The District Council shall establish a committee of seven persons consisting of the chairman and one representative from the council of each area municipality to be known as the Muskoka District Police Liaison Committee which shall meet at monthly intervals with the representatives of the Ontario Provincial Police to discuss police matters within the District Area. 1970, c. 32, s. 93.

Application  
of s. 25

**88.** The provisions of subsections 9 to 12 of section 25 apply to every member of the police forces of the towns of Bracebridge, Gravenhurst and Huntsville. 1970, c. 32, s. 94.

## PART VIII

### FINANCES

Interpreta-  
tion

**89.** In this Part,

- (a) “merged area” means any area so designated by the Minister for the purposes of this Part;
- (b) “rateable property” includes business and other assessment made under *The Assessment Act*. 1970, c. 32, s. 96.

R.S.O. 1970  
c. 32

Investment  
of money not  
immediately  
required  
R.S.O. 1970,  
c. 284

**90.** Section 312 of *The Municipal Act* applies *mutatis mutandis* to the District Corporation. 1970, c. 32, s. 97.

### YEARLY ESTIMATES AND LEVIES

Yearly  
estimates

**91.—**(1) The District Council shall in each year prepare and adopt estimates of all sums required during the year for the purposes of the District Corporation, including the sums required by law to be provided by the District Council for any local board of the District Corporation, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Department may from time to time prescribe.

Allowance to  
be made in  
estimates

(2) In preparing the estimates, the District Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for such reserves within such limits as to type and amount as the Department may approve. 1970, c. 32, s. 98.

Levy on  
area municipa-  
lities

**92.—**(1) The District Council in each year shall levy against the area municipalities a sum sufficient,

- (a) for payment of the estimated current annual expenditures as adopted; and

- (b) for payment of all debts of the District Corporation falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the District Corporation is liable under this Act.

(2) The District Council shall ascertain and by by-law direct what portion of the sum mentioned in subsection 1 shall be levied against and in each area municipality. Apportionment

(3) Subject to subsection 10, all amounts levied under subsection 1 shall be apportioned among the area municipalities in the proportion that the whole rateable property in each area municipality bears to the whole rateable property in the District Area, according to the last revised assessment rolls. Idem

(4) The Department shall revise and equalize the last revised assessment rolls of the area municipalities and, for the purpose of subsection 3, the last revised assessment rolls for the area municipalities as so revised and equalized by the Department shall be deemed to be the last revised assessment rolls of the area municipalities. Equalized assessment

(5) Subsection 4 shall cease to apply on a date to be determined by order of the Minister. When subs. 4 ceases to apply

(6) Upon completion by the Department of the revision and equalization of assessment, the Department shall notify the District Corporation and each of the area municipalities of the revised and equalized assessment of each area municipality. Copy to District Corporation and area municipality

(7) If any area municipality is not satisfied with the assessment as revised and equalized by the Department, the area municipality may appeal from the decision of the Department by notice in writing to the Municipal Board at any time within thirty days after the notice of the revised and equalized assessment was sent to the area municipality by the Department. Appeal

(8) Every notice of revision and equalization made under this section shall set out the time within which an appeal may be made to the Municipal Board with respect to such revision and equalization. Idem

(9) Where the last revised assessment of the area municipality has been revised and equalized by the Department and has been appealed, the District Council shall forthwith after the decision of the Municipal Board on such appeal, amend, if required, the by-law passed under subsection 2 so as to make the apportionments among the area municipalities according to the assessments as revised by the Municipal Board upon such appeal, and, Amendment of by-law where necessary following appeal



- (a) where the moneys levied against an area municipality are thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the treasurer of the District Corporation; and
- (b) where the moneys levied against an area municipality are thereby decreased, the treasurer of the area municipality shall be liable to pay the treasurer of the District Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the District Corporation shall pay the amount of the decrease to the treasurer of the area municipality.

Fixed assessments, etc., not to apply

R.S.O. 1970, c. 32

(10) The apportionment of the levy among the area municipalities as provided for in subsections 2 and 3 shall be based on the full value of all rateable property, and notwithstanding any general or special Act, no fixed assessment other than a fixed assessment under section 31 of *The Assessment Act* or partial or total exemption from assessment or taxation applies thereto, except as provided in section 3 of *The Assessment Act*.

Assessment to include valuations on properties for which payments in lieu of taxes paid

(11) The assessment upon which the levy among the area municipalities shall be apportioned shall include the valuations of all properties for which payments in lieu of taxes which include a payment in respect of district levies are paid by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof or The Hydro-Electric Power Commission of Ontario to any area municipality.

Valuation of properties

(12) The clerk of each area municipality shall transmit to the Department; within fourteen days of a payment in lieu of taxes, a statement of the valuations of real property in the area municipality upon which such payment was made together with a statement showing the computations of such payment, and the Department shall revise and equalize the valuations, and shall thereupon notify the District Corporation of the revised and equalized valuations.

Levy by-laws

(13) One by-law or several by-laws for making the levies may be passed as the District Council may consider expedient.

District levy  
R.S.O. 1970, c. 32

(14) Subject to subsections 4, 5 and 6 of section 47 of *The Assessment Act*, in each area municipality the district levy shall be calculated and levied upon the whole rateable property rateable for such purpose within such area municipality according to the last revised assessment roll thereof.

Payment

(15) All moneys levied against an area municipality under the authority of this section shall be deemed to be taxes and are a debt of the area municipality to the District Corporation and the treasurer of every area municipality shall pay the moneys so levied to the treasurer of the District Corporation at the times

and in the amounts specified by the by-law of the District Council mentioned in subsection 2.

(16) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. 1970, c. 32, s. 99.

**93.** In sections 94 and 96,

(a) “commercial assessment” means the total of,

Residential  
and commer-  
cial assess-  
ment defined

- (i) the assessment for real property that is used as a basis for computing business assessment including the assessment for real property that is rented and is occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal, metropolitan, regional or district corporation or local board thereof, and
- (ii) the business assessment, and
- (iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipelines and the assessment of telephone and telegraph companies, and the assessment of lands not liable for business assessment under subsection 2 of section 7 of *The Assessment Act*,

R.S.O. 1970,  
c. 32

according to the last revised assessment roll;

- (b) “residential assessment” means the total assessment for real property according to the last revised assessment roll except the assessments for real property mentioned in subclauses i and iii of clause a. 1970, c. 32, s. 100.

**94.**—(1) The council of each area municipality shall levy, as provided by this section, the sums adopted for general purposes in accordance with section 307 of *The Municipal Act*, together with a sum equal to the aggregate of the sums required by law to be provided by the council for the District Corporation or any board, commission or other body, but not the sums required to be levied under section 96 of this Act.

Rates

R.S.O. 1970,  
c. 284

(2) The Department shall revise and equalize, by the application of the latest equalization factors of the Department, each part of the last revised assessment rolls of the area municipalities that relates to a merged area and each such part of the last revised assessment roll of each of the area municipalities as revised and equalized is final and binding.

Equalization  
of assess-  
ment of  
merged areas

Notice

(3) Upon completion by the Department of the revision and equalization of assessment in an area municipality under subsection 4, the Department shall notify the area municipality of the revised and equalized assessment.

Levy on  
commercial  
assessment

(4) The amount to be raised by an area municipality in each year by levy on the commercial assessment shall be a sum equal to the proportion of the sum to be levied in accordance with subsection 1 that the commercial assessment of the area municipality bears to the total assessment of the area municipality both according to the last revised assessment roll as equalized by the Department under subsection 2.

Levy on  
residential  
assessment

(5) The amount to be raised by an area municipality in each year by levy on the residential assessment shall be a sum equal to the proportion of the sum levied under subsection 1 that the residential assessment of the area municipality bears to the total assessment of the area municipality both according to the last revised assessment roll as equalized by the Department under subsection 4, reduced by the sum equal to the estimated revenue from payments to be received in that year by the municipality under section 7 of *The Municipal Unconditional Grants Act*.

R.S.O. 1970,  
c. 293Apportion-  
ment among  
merged areas

(6) The sums levied under subsection 1 shall be apportioned among the merged areas of each area municipality in the following manner:

Commercial

1. The amount, as ascertained in accordance with subsection 4, to be raised by the area municipality in each year by levy on the commercial assessment shall be apportioned among the merged areas in the proportion that the total commercial assessment in each merged area bears to the total commercial assessment in the area municipality both according to the last revised assessment roll as equalized by the Department under subsection 2.

Residential

2. The amount, as ascertained in accordance with subsection 5, to be raised by the area municipality in each year by levy on the residential assessment shall be apportioned among the merged areas in the proportion that the total residential assessment in each merged area bears to the total residential assessment in the area municipality both according to the last revised assessment roll as equalized by the Department under subsection 2.

Levy on  
commercial  
assessment  
in merged  
areas

(7) The council of the area municipality shall levy on the whole of the commercial assessment in each merged area, according to the last revised assessment roll, the amount ascertained for that merged area in accordance with paragraph 1 of subsection 6.

(8) The council of the area municipality shall levy on the whole of the residential assessment in each merged area, according to the last revised assessment roll, the amount ascertained for that merged area in accordance with paragraph 2 of subsection 6.

Levy on residential assessment in merged areas

(9) The provisions of this section shall cease to apply on the date determined by the Minister under subsection 5 of section 92. 1970, c. 32, s. 101.

When provisions cease to apply

**95.**—(1) Notwithstanding section 92, in the year 1971 the District Council may, before the adoption of the estimates for that year, levy against the area municipalities a sum not exceeding 25 per cent of the aggregate levies made by all local municipalities within the District Area in the year 1970 for general municipal purposes, and any amount so levied shall be apportioned among the area municipalities in the same manner as levies made under subsection 1 of section 92, and subsections 15 and 16 of section 92 apply to such a levy.

Levy by District Council Before estimates adopted

(2) Notwithstanding section 92, in the year 1972 and in each subsequent year the District Council may, before the adoption of estimates for the year, levy against each of the area municipalities a sum not exceeding 50 per cent of the levy made by the District Council in the preceding year against that area municipality and subsections 15 and 16 of section 92 apply to such a levy.

Idem

(3) The amount of any levy made under subsection 1 or 2 shall be deducted from the amount of the levy made under section 92.

Levy under s. 92 to be reduced

(4) Notwithstanding section 94, until the date determined by the Minister under subsection 5 of section 92, the council of an area municipality may in any year by by-law passed before the adoption of the estimates for that year, levy in each of the merged areas in the area municipality, before the adoption of the estimates, on the whole of the assessment for real property in the merged area according to the last revised assessment roll a sum not exceeding 50 per cent of that which would be produced by applying to such assessment the total rate for all purposes levied in the merged area in the preceding year on residential real property of public school supporters.

Levy by area municipality before estimates adopted

(5) Where the council of an area municipality has not provided for taking the assessment of business during the same year in which the rates of taxation thereon are to be levied, the council, notwithstanding section 94, until the date determined by the Minister under subsection 5 of section 92 may, by by-law passed before the adoption of the estimates for that year, levy in each of the merged areas in the area municipality, before the adoption of the estimates, on the whole of the business assessment in the merged area according to the last revised assessment roll, a sum not exceeding 50 per cent of that which would be produced by

Business assessment



applying to such assessment the total rate for all purposes levied in the merged area in the preceding year on business assessment of public school supporters.

Levy made  
under s. 94  
to be  
reduced

(6) The amount of any levy under subsection 4 or 5 shall be deducted from the amount of the levy made under section 94.

Application  
of R.S.O.  
1970, c. 284  
section 303,  
subs. 4

(7) Subsection 4 of section 303 of *The Municipal Act* applies to levies made under this section.

R.S.O. 1970,  
c. 284,  
section 303  
not to apply

(8) Section 303 of *The Municipal Act* does not apply until the date determined by the Minister under subsection 5 of section 92. 1970. c. 32, s. 102.

Rates under  
R.S.O. 1970,  
c. 430

**96.**—(1) For the purpose of levying taxes under *The Separate Schools Act*, the merged areas of an area municipality shall be deemed to be municipalities, and the council of the area municipality shall be deemed to be the council of each such merged area.

Rates for  
public school  
purposes on  
commercial  
assessment  
R.S.O. 1970,  
c. 424

(2) The amount required to be levied and collected by an area municipality for public school purposes on commercial assessment determined as a result of the application of section 78 of *The Schools Administration Act* shall be apportioned among the merged areas in the ratio that the total commercial assessment for public school purposes in each merged area bears to the total commercial assessment for public school purposes in the area municipality, both as equalized by the Department in accordance with subsection 2 of section 94.

Rates for  
public school  
purposes on  
residential  
assessment

(3) The amount required to be levied and collected by an area municipality for public school purposes on residential assessment determined as a result of the application of section 78 of *The Schools Administration Act* shall be apportioned among the merged areas in the ratio that the total residential assessment for public school purposes in each merged area bears to the total residential assessment for public school purposes in the area municipality, both as equalized by the Department in accordance with subsection 2 of section 94.

Rates for  
secondary  
school  
purposes on  
commercial  
assessment

(4) The amount required to be levied and collected by an area municipality for secondary school purposes on commercial assessment determined as a result of the application of section 78 of *The Schools Administration Act* shall be apportioned among the merged areas in the ratio that the total commercial assessment for secondary school purposes in each merged area bears to the total commercial assessment for secondary school purposes in the area municipality, both as equalized by the Department in accordance with subsection 2 of section 94.

(5) The amount required to be levied and collected by an area municipality for secondary school purposes on residential assessment determined as a result of the application of section 78 of *The Schools Administration Act* shall be apportioned among the merged areas in the ratio that the total residential assessment for secondary school purposes in each merged area bears to the total residential assessment for secondary school purposes in the area municipality, both as equalized by the Department in accordance with subsection 2 of section 94.

Rates for secondary school purposes on residential assessment

(6) Notwithstanding subsections 2, 3, 4 and 5, where in any year a regulation is in force under section 33 of *The Secondary Schools and Boards of Education Act* the apportionments referred to in the said subsections 2, 3, 4 and 5 shall be made in accordance with such regulation.

Regulations under R.S.O. 1970, c. 425 to apply

(7) The provisions of this section apply until the date determined by the Minister under subsection 5 of section 92. 1970, c. 32, s. 103.

Application of section

**97.** The Minister may provide from time to time by order that, in the year or years and in the manner specified in the order, the council of any area municipality shall levy, on the whole of the assessment for real property and business assessment according to the last revised assessment roll in any specified merged area or areas, rates of taxation for general purposes which are different from the rates which would have been levied for such purposes but for the provisions of this section. 1970, c. 32, s. 104.

Transitional adjustments

**98.—(1)** For the purpose of subsection 2 of section 307 of *The Municipal Act*, the surplus of the previous year for which allowance is to be made or the operating deficit to be provided for in the estimates of the council of an area municipality for the year 1971 shall be the aggregate of the audited surpluses or operating deficits of each of the merged areas of that area municipality.

Allowances to be made in estimates of area municipalities in 1971  
R.S.O. 1970, c. 284

(2) For the purpose of subsection 1, the audited surplus or operating deficit of a merged area that before the 1st day of January, 1971, comprised the whole of a local municipality shall be the audited surplus or operating deficit of such local municipality at the 31st day of December, 1970.

Merged areas

(3) For the purpose of subsection 1, the audited surplus or operating deficit of a merged area that before the 1st day of January, 1971, comprised part of a local municipality shall be an amount that is the same proportion of the audited surplus or operating deficit of the local municipality that the amount of the assessment of the merged area is of the total amount of the assessment of the local municipality, both according to the last revised assessment roll. 1970, c. 32, s. 105.

Idem

## ADJUSTMENTS

Interpreta-  
tion

**99.**—(1) In this section, “surplus or operating deficit” includes any reserves provided for under subsection 2 of section 307 of *The Municipal Act*.

Surplus or  
deficit at  
December  
31, 1970  
to be applied  
to support-  
ing assess-  
ment

(2) The audited surplus or operating deficit of a local municipality at the 31st day of December, 1970, shall accrue to the credit of or become a charge on the assessment supporting such surplus or operating deficit and, subject to subsection 4, shall be provided for by adjustment of the tax rate in the year 1971.

Idem

(3) The audited surplus or operating deficit of a local roads board or statute labour board at the 31st day of December, 1970, shall accrue to the credit of or become a charge on the assessment supporting such surplus or operating deficit and, subject to subsection 4, shall be provided for by adjustment of the tax rate in the year 1971.

Adjustments  
may be  
spread over  
five years by  
order

(4) Where, in the opinion of the Minister, the operation of this section would cause substantial hardship to the taxpayers in a particular merged area within any area municipality, he may, by order, provide that the necessary adjustment in the tax rate be made over a period of not more than five years. 1970, c. 32, s. 106.

Arbitration

**100.**—(1) The Minister may, on or before the 1st day of September, 1970, appoint committees of arbitrators for the purpose of determining initially the disposition, including the physical possession, of the assets and liabilities, including reserve funds, of the Township of McLean, the Township of Medora and Wood, the Township of Monck and the Township of Muskoka.

Idem

(2) Each committee shall consist of one or more treasurers designated by the Minister representing municipalities directly concerned with the disposition of particular assets and liabilities and reserve funds, and the treasurer of the divided municipality whose assets, liabilities or reserve funds are to be considered, or such other person or persons as the Minister may appoint.

Provisional  
determina-  
tion

(3) Before the 31st day of December, 1970, the committees shall, where appropriate, make provisional determinations of the disposition of the known assets, liabilities and reserve funds, and these dispositions shall become operative from the 1st day of January, 1971.

Final  
determina-  
tion

(4) As soon as possible thereafter, the committees, where appropriate, shall make final determinations of the disposition of assets, liabilities and reserve funds as at the 31st day of December, 1970, together with determinations of any financial adjustments which may be necessary.

(5) The final determination made under subsection 4 shall be forwarded forthwith to the area municipalities directly concerned and to the Municipal Board and, unless the council of any such area municipality notifies the Municipal Board in writing within thirty days of the mailing of such determination to the area municipality that it objects to the determination, such determination shall, for the purposes of clause *a* of subsection 11 of section 14 of *The Municipal Act*, be deemed to be agreed upon by such area municipalities.

Idem

R.S.O. 1970,  
c. 284

(6) The final determination of a disposition or an adjustment under this section shall set out the time within which an appeal may be made to the Municipal Board with respect to such determination.

Idem

(7) Where, in the opinion of the Minister, any financial settlement arising from the application of this section would cause substantial hardship to the taxpayers of an area municipality, he may, by order, provide that such settlement be made over a period not exceeding five years.

## Substantial hardship

(8) All documents and records kept by the clerk or treasurer or other officer of each divided municipality shall be transferred to the clerk or treasurer or other officer, as the case may be, of the area municipality designated by the appropriate committee established under subsection 1, and such documents and records shall be made available to any official of any area municipality to which any other portion of the divided municipality is transferred, during the normal office hours of the area municipality to which they are transferred. 1970, c. 32, s. 107.

Documents  
and records  
of divided  
municipalities

## URBAN SERVICES

**101.—(1)** In this section,

### Interpretation

- (a) "cost" includes the cost of constructing, equipping, extending, enlarging, altering and replacing public works for the purpose of providing an urban service, the cost of managing, operating and maintaining such urban service, the cost of any land, buildings and equipment necessary for providing an urban service, and the cost of the issue and sale of debentures for an urban service and any discount allowed to the purchasers of them;
- (b) "urban service" means,
- (i) ~~the collection and disposal of sewage and land drainage,~~
  - (ii) the collection and removal of ashes or garbage or other refuse,



(iii) street lighting, or

(iv) the provision and distribution of an adequate supply of water.

Areas of  
urban  
service

(2) The council of each area municipality shall, with the approval of the Municipal Board, by by-law designate the areas in which an urban service is or is to be provided by the area municipality.

Levy in  
areas

R.S.O. 1970,  
cc. 255, 284

(3) The aggregate amount of the sums necessary in each year to pay the cost of an urban service in a designated area, including the area municipalities' portion of all debenture charges for works constructed under *The Local Improvement Act* and debenture charges for debentures issued under any other Act in connection with such urban service, except to the extent that such cost is raised by special assessments, under any general or special Act, or otherwise, shall be levied in the manner provided by *The Municipal Act* upon all rateable property in the designated area and no part of the cost of providing such urban service shall be levied on any part of the area municipality lying outside the designated area. 1970, c. 32, s. 108.

#### RESERVE FUNDS

Reserve  
funds of  
municipali-  
ties

**102.**—(1) Reserve funds established by local municipalities for purposes for which the District Council has authority to spend funds and for which the council of an area municipality has no authority to spend funds are reserve funds of the District Corporation and the assets of such reserve funds are vested in the District Corporation.

Idem

(2) Reserve funds established by local municipalities, other than divided municipalities, for purposes for which the councils of area municipalities have authority to spend funds and for which the District Council has no authority to spend funds are reserve funds of the area municipality of which the local municipality forms a part, and the assets of such reserve funds are vested in such area municipality. 1970, c. 32, s. 109.

Reserve  
funds,  
establish-  
ment, etc.

**103.**—(1) The District Council may in each year, if authorized by a two-thirds vote of the members present at a meeting of the District Council, provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds.

Investments  
and income

R.S.O. 1970,  
c. 470

(2) The moneys raised for a reserve fund established under subsection 1 shall be paid into a special account and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings derived from the investment of such moneys form part of the reserve fund.

(3) The moneys raised for a reserve fund established under subsection 1 shall not, without the approval of the Department, be expended, pledged or applied to any purpose other than that for which the fund was established.

Expenditure  
of reserve  
fund moneys

(4) The auditor in his annual report shall report on the activities and position of each reserve fund established under subsection 1. 1970, c. 32, s. 110.

Auditor to  
report on  
reserve  
funds

**104.**—(1) The District Council shall establish and maintain a planning fund.

Planning  
fund

(2) The moneys in the fund established under subsection 1 may be used only to defray the costs of the District Council in exercising its powers under Part V.

Purpose of  
fund

(3) The District Council shall establish and maintain a pollution control fund and shall contribute to such fund, in each year, the sum equivalent to a sum calculated at one quarter of one mill in the dollar upon the total assessment upon which the district levy is apportioned in that year among the area municipalities under subsection 3 of section 92.

Pollution  
control fund

(4) The moneys in the fund established under subsection 3 may be used only to defray the costs of the District Council in exercising its powers under Part III and for pollution control measures undertaken in the District Area, which measures are in addition to the normal pollution control measures being undertaken by the Muskoka-Parry Sound Health Unit.

Purpose of  
fund

(5) None of the costs of the District Council in exercising its powers under Part III shall form part of the levy under section 92 except as provided in subsection 4.

Cost of  
District  
Council  
under  
Part III

(6) The moneys raised for each of the funds established under this section shall be paid into special accounts and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings derived from the investment of such moneys for each fund form part of that fund.

Investments  
and income

R.S.O. 1970,  
c. 470

(7) The moneys raised for each fund established under this section shall not, without the approval of the Department, be expended, pledged or applied to any purpose other than that for which the fund was established.

Expenditure  
of fund  
moneys

(8) The auditor in his annual report shall report on the activities and position of each fund established under this section in the form prescribed by the Department. 1970, c. 32, s. 111.

Auditor to  
report on  
funds

#### SPECIAL PROVINCIAL ASSISTANCE

**105.** The following contributions, in each of the years 1971, 1972, 1973, 1974 and 1975, to the expenditures of the District Corporation shall be paid out of the Consolidated Revenue Fund,

Special  
contributions

- (a) an amount of \$150,000, to be known as the Environmental Development Grant, of which \$50,000 shall be paid into the fund established under subsection 1 of section 104 and \$100,000 into the fund established under subsection 3 of section 104; and
- (b) an amount of \$50,000 to defray part of the cost of administrative expenditures of the District Council. 1970, c. 32, s. 112.

## TEMPORARY LOANS

Current  
borrowings

**106.**—(1) The District Council may by by-law, either before or after the passing of by-laws for imposing levies on the area municipalities for the current year, authorize the chairman and treasurer to borrow from time to time by way of promissory note such sums as the District Council may consider necessary to meet, until the levies are received, the current expenditures of the District Corporation for the year, including the amounts required for principal and interest falling due within the year upon any debt of the District Corporation and the sums required by law to be provided by the District Council for any local board of the District Corporation.

Limit upon  
borrowings

(2) The amount that may be borrowed at any one time for the purposes mentioned in subsection 1, together with any similar borrowings that have not been repaid, shall not, except with the approval of the Municipal Board, exceed 70 per cent of the uncollected balance of the estimated revenues of the District Corporation as set forth in the estimates adopted for the year.

Temporary  
application  
of estimates  
of preceding  
year

(3) Until such estimates are adopted, the limitation upon borrowing prescribed by subsection 2 shall temporarily be calculated upon the estimated revenues of the District Corporation as set forth in the estimates adopted for the next preceding year, provided that in the year 1971 the amount that may be borrowed at any one time prior to the adoption of the estimates shall be such amount as may be approved by the Municipal Board.

Protection of  
lender

(4) The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application.

Execution  
of  
promissory  
notes

(5) Any promissory note made under the authority of this section shall be sealed with the seal of the District Corporation and signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Creation of  
charge

(6) The District Council may by by-law provide or authorize the chairman and treasurer to provide by agreement that all or

any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the District Corporation for the current year and for any preceding years as and when such revenues are received, provided that such charge does not defeat or affect and is subject to any prior charge then subsisting in favour of any other lender.

(7) Any agreement entered into under subsection 6 shall be sealed with the corporate seal and signed by the chairman and treasurer. Execution of agreements

(8) If the District Council authorizes the borrowing of or borrows any larger amount than is permitted under this section, every member who knowingly votes therefor is disqualified from holding any municipal office for two years. Penalties for excess borrowings

(9) If the District Council authorizes the application of any revenues of the District Corporation charged under the authority of this section otherwise than in repayment of the loan secured by such charge, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction. Penalty for misapplication of revenues by District Council

(10) If any member of the District Council or officer of the District Corporation applies any revenues so charged otherwise than in repayment of the loan secured by such charge, he is personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction. Penalty for misapplication of revenues by officials

(11) Subsections 8, 9 and 10 do not apply to the District Council or any member of the District Council or officer of the District Corporation acting under an order or direction issued or made under the authority of *The Department of Municipal Affairs Act*, nor do they apply in any case where application of the revenues of the District Corporation is made with the consent of the lender in whose favour a charge exists. 1970, c. 32, s. 113. Saving as to penalties  
R.S.O. 1970, c. 118

#### DEBT

**107.**—(1) Subject to the limitations and restrictions in this Act and *The Ontario Municipal Board Act*, the District Council may borrow money for the purposes of, Debt  
R.S.O. 1970, c. 323

- (a) the District Corporation;
- (b) any area municipality; and
- (c) the joint purposes of any two or more area municipalities,

whether under this or any general or special Act, and may issue debentures therefor on the credit of the District Corporation.



## Liability

(2) All debentures issued pursuant to a by-law passed by the District Council under the authority of this Act are direct, joint and several obligations of the District Corporation and the area municipalities notwithstanding the fact that the whole or any portion of the rates imposed for the payment thereof may have been levied only against one or more of the area municipalities, but nothing in this subsection affects the rights of the District Corporation and of the area municipalities respectively as among themselves.

## Limitation

(3) Notwithstanding any general or special Act, no area municipality has, after the 31st day of December, 1970, power to issue debentures. 1970, c. 32, s. 114 (1-3).

## Uncompleted works

(4) When an area municipality, prior to the 31st day of December, 1970,

- (a) has applied for and obtained the final approval of the Municipal Board in respect of any work, project or other matter mentioned in subsection 1 of section 64 of *The Ontario Municipal Board Act*, being chapter 274 of the Revised Statutes of Ontario, 1960; and
- (b) has entered into a contract for or authorized the commencement of such work, project or matter but has not prior to that date issued the debentures authorized,

the District Council, upon the request of the council of the area municipality, shall pass a by-law authorizing the issue and sale of debentures of the District Corporation for the purposes and in the amount approved by the Municipal Board and shall, if required by the area municipality, issue such debentures and provide temporary financing for the area municipality in the manner provided in section 110, and no further approval of the Municipal Board is required. 1970, c. 32, s. 114 (4), *amended*.

Bonds,  
debentures,  
etc., trustee  
investments  
R.S.O. 1970,  
c. 470

(5) Bonds, debentures and other evidences of indebtedness of the District Corporation shall be deemed to be bonds, debentures and other evidences of indebtedness of a municipal corporation for the purposes of *The Trustee Act*. 1970, c. 32, s. 114 (5).

Power to  
incur debt  
or issue  
debentures  
R.S.O. 1970,  
c. 323

**108.**—(1) Subject to the limitations and restrictions in this Act and *The Ontario Municipal Board Act*, the District Corporation may by by-law incur a debt or issue debentures for the purposes set forth in subsection 1 of section 107 and, notwithstanding any general or special Act, such by-law may be passed without the assent of the electors of the District Area.

## Idem

(2) Where, under any general or special Act, an area municipality cannot incur a debt or issue debentures for a particular purpose without the assent of its electors or without the concurrence of a specified number of the members of its council, the

District Council shall not pass a by-law authorizing the issue of debentures on behalf of such area municipality for such purpose unless such assent or concurrence to the passing of the by-law by the District Council has been obtained.

(3) Nothing in subsection 2 requires the assent of any electors where such assent has been dispensed with under section 63 of *The Ontario Municipal Board Act*. 1970, c. 32, s. 115. Proviso

**109.**—(1) Notwithstanding any general or special Act, the Municipal Board, before making any order under section 64 of *The Ontario Municipal Board Act* on the application of the District Corporation or of any area municipality, shall hold a public hearing for the purpose of inquiring into the merits of the matter. Hearing

(2) Notice of the hearing shall be given to the clerk of the District Corporation and to the clerk of each area municipality in such manner as the Municipal Board may direct. Notice

(3) The Municipal Board may dispense with the public hearing if the applicant files with the secretary of the Municipal Board a certified copy of a resolution of the council of each corporation entitled to notice under subsection 2 consenting to such dispensation. Dispensation with hearing

(4) The Municipal Board may direct that an applicant give, by registered mail, to the persons mentioned in subsection 2 notice of any application including a requirement that the District Corporation or any area municipality file with the applicant, within such time as may be specified by the Municipal Board, any objection to the application, and, if no such objection is filed within the time specified, the Municipal Board may dispense with the public hearing. 1970, c. 32, s. 116. Idem

**110.**—(1) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the District Corporation for its purposes, the District Council pending the issue and sale of the debentures may agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purpose authorized, and may by by-law pending the sale of such debentures or in lieu of selling them authorize the chairman and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan. Borrowing pending issue and sale of debentures

(2) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the District Corporation for the purposes of an area municipality, the District Council pending the issue and sale of the debentures may, and on the request of the area municipality shall, agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purposes authorized, and may, on the request Idem

of the area municipality shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the area municipality.

Interest on  
proceeds  
transferred

(3) The District Corporation may charge interest on any proceeds of an advance or loan transferred under subsection 2 at a rate sufficient to reimburse it for the cost of such advance or loan.

Application  
of proceeds  
of loan

(4) The proceeds of every advance or loan under this section shall be applied to the purposes for which the debentures were authorized, but the lender shall not be bound to see to the application of the proceeds and, if the debentures are subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan and, where the debentures were issued for the purposes of an area municipality, the balance, subject to section 122, shall be transferred to the area municipality.

Hypotheca-  
tion not to  
prevent sub-  
sequent sale  
of debentures

(5) Subject to subsection 4, the redemption of a debenture hypothecated does not prevent the subsequent sale thereof. 1970, c. 32, s. 117.

Principal  
and interest  
payments

**111.**—(1) Subject to subsection 2, a money by-law for the issuing of debentures shall provide that the principal shall be repaid in annual instalments with interest annually or semi-annually upon the balances from time to time remaining unpaid, but the by-law may provide for annual instalments of combined principal and interest.

Sinking fund  
debentures

(2) A money by-law for the issuing of debentures may provide that the principal shall be repaid at a fixed date with interest payable annually or semi-annually, in which case debentures issued under the by-law shall be known as sinking fund debentures.

When deben-  
tures to be  
payable

(3) Notwithstanding any general or special Act, the whole debt and the debentures to be issued therefor shall be made payable within such term of years as the Municipal Board may approve.

Special levy  
against area  
municipali-  
ties

(4) The by-law may provide for raising in each year, by special levy or levies against one or more area municipalities, the whole or specified portions of the sums of principal and interest payable under the by-law in such year, and each area municipality shall pay to the District Corporation such sums at the times and in the amounts specified in the by-law.

General levy

(5) The by-law shall provide for raising in each year, by a special levy on all the area municipalities, the sums of principal and interest payable under the by-law in such year to the extent that such sums have not been provided for by any special levy or levies against any area municipality or municipalities made especially liable therefor by the by-law.

(6) Any special levy against an area municipality imposed by the by-law under the authority of subsection 4 may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion of the debt levied against it under subsection 4.

Levy by  
area muni-  
cipalities

(7) All levies imposed by the by-law against an area municipality are a debt of the area municipality to the District Corporation.

Levies a  
debt

(8) The District Council may by by-law authorize a change in the mode of issue of the debentures and may provide that the debentures be issued with coupons instead of in amounts of combined principal and interest or *vice versa* and where any debentures issued under the by-law have been sold, pledged or hypothecated by the District Council upon again acquiring them or at the request of any holder of them, may cancel them and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year.

By-law to  
change mode  
of issuing  
debentures

(9) All the debentures shall be issued at one time and within two years after the passing of the by-law unless, on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the District Council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts and at such times as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years, after the passing of the by-law.

Debentures  
when to be  
dated and  
issued

(10) All the debentures shall bear the same date, except where they are issued in sets in which case every debenture of the same set shall bear the same date.

Date of  
debentures

(11) Notwithstanding the provisions of the by-law, the debentures may bear date at any time within the period of two years or five years, as the case may be, mentioned in subsection 9 and the debentures may bear date before the date the by-law is passed if the by-law provides for the first levy being made in the year in which the debentures are dated or in the next succeeding year.

Idem

(12) The Municipal Board, on the application of the District Council, the council of any area municipality or any person entitled to any of the debentures or of the proceeds of the sale thereof, may at any time extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law.

Extension of  
time for  
issue



Application  
after time  
expired

(13) The extension may be made although the application is not made until after the expiration of the two years or of the time provided for the issue of the set.

Effective  
date

(14) Unless the by-law names a later day when it is to take effect, it takes effect on the day of its passing.

Consolida-  
tion

(15) Notwithstanding any general or special Act, the District Council may borrow sums for two or more purposes in one debenture by-law and provide for the issue of one series of debentures therefor.

Consolidat-  
ing  
debenture  
by-laws  
R.S.O. 1970,  
c. 284  
Redemption  
before  
maturity

(16) Section 290 of *The Municipal Act* applies *mutatis mutandis* to the District Corporation.

(17) The by-law may provide that all the debentures or a portion thereof shall be redeemable at the option of the District Corporation on any date prior to maturity, subject to the following provisions:

1. The by-law and every debenture that is so redeemable shall specify the place or places of payment and the amount at which such debenture may be so redeemed.
2. The principal of every debenture that is so redeemable becomes due and payable on the date set for the redemption thereof, and from and after such date interest ceases to accrue thereon where provision is duly made for the payment of the principal thereof, the interest to the date set for redemption, and any premium payable on redemption.
3. Notice of intention so to redeem shall be sent by prepaid mail at least thirty days prior to the date set for such redemption to the person in whose name the debenture is registered at the address shown in the Debenture Registry Book.
4. At least thirty days prior to the date set for such redemption, notice of intention so to redeem shall be published in *The Ontario Gazette* and in a daily newspaper of general circulation in the District Area and in such other manner as the by-law may provide.
5. Where only a portion of the debentures issued under the by-law is so to be redeemed, such portion shall comprise only the debentures that have the latest maturity dates and no debentures issued under the by-law shall be called for such redemption in priority to any such debenture that has a later maturity date.

6. Where a debenture is redeemed on a date prior to maturity, such redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the District Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the District Council in respect of the debenture so redeemed.

(18) The by-law may provide that the debentures to be issued Currency thereunder shall be expressed and be payable,

- (a) in lawful money of Canada and payable in Canada;
- (b) in lawful money of the United States of America and payable in the United States of America; or
- (c) in lawful money of Great Britain and payable in Great Britain.

(19) Where, under the provisions of the by-law, debentures Annual rates issued thereunder are expressed and made payable in lawful money of the United States of America or of Great Britain, the District Council may in such by-law or in any amending by-law, in lieu of providing for the raising in each year during the currency of the debentures specific sums sufficient to pay interest thereon or instalments of principal falling due in such year, provide that there shall be raised such yearly amount as may be necessary for such purposes and as the requirements for such purposes may from year to year vary.

(20) When sinking fund debentures are issued, the amount of principal to be raised in each year shall be a specific sum which, Principal levies with the estimated interest at a rate not exceeding  $3\frac{1}{2}$  per cent per annum, capitalized yearly, will be sufficient to pay the principal of the debentures or any set of them, when and as it becomes due.

(21) When sinking fund debentures are issued, the sinking fund committee shall keep one or more consolidated bank ac- Consolidated bank accounts counts in which,

- (a) the treasurer of the District Corporation shall deposit each year during the term of the debentures the moneys raised for the sinking fund of all debts that are to be paid by means of sinking funds; and
- (b) there shall be deposited all earnings derived from, and all proceeds of the sale, redemption or payment of, sinking fund investments.

(22) When sinking fund debentures are issued, there shall be a Sinking fund committee sinking fund committee that shall be composed of the treasurer of the District Corporation and two members appointed by the

Lieutenant Governor in Council, and the two appointed members shall be paid, out of the current fund of the District Corporation, such annual remuneration as the Lieutenant Governor in Council may determine.

Alternate members

(23) The Lieutenant Governor in Council may appoint an alternate member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member.

Chairman

(24) The treasurer of the District Corporation shall be the chairman and treasurer of the sinking fund committee and in his absence the appointed members may appoint one of themselves as acting chairman and treasurer.

Security

(25) Each member of the sinking fund committee shall, before entering into the duties of his office, give security for the faithful performance of his duties and for duly accounting for and paying over all moneys that come into his hands, in such amount as the auditor of the District Corporation shall determine, and in other respects the provisions of section 233 of *The Municipality Act* apply with respect to such security.

R.S.O. 1970,  
c. 284

Quorum

(26) Two members of the sinking fund committee are a quorum, and all investments and disposals of investments must be approved by a majority of all the members of the committee.

Control of  
sinking fund  
assets

(27) All assets of the sinking funds, including all consolidated bank accounts, shall be under the sole control and management of the sinking fund committee.

Withdrawals  
from bank  
accounts

(28) All withdrawals from the consolidated bank accounts shall be authorized by the sinking fund committee, and all cheques on the consolidated bank accounts shall be signed by the chairman or acting chairman and one other member of the sinking fund committee.

Investments

(29) The sinking fund committee shall invest any moneys on deposit from time to time in the consolidated bank accounts and may at any time or times vary any investments.

Idem

(30) The moneys in the consolidated bank accounts shall be invested in one or more of the following forms,

R.S.O. 1970,  
c. 470

- (a) in securities in which a trustee may invest under *The Trustee Act*;
- (b) in debentures of the District Corporation;
- (c) in temporary advances to the District Corporation pending the issue and sale of any debentures of the District Corporation;

- (d) in temporary loans to the District Corporation for current expenditures, but no loan for such purpose shall be made for a period ending after the end of the calendar year in which the loan is made.

(31) Any securities acquired by the sinking fund committee as investments for sinking fund purposes may be deposited with the Treasurer of Ontario.

Deposit of securities with Treasurer of Ontario

(32) The Treasurer of Ontario shall release, deliver or otherwise dispose of any security deposited with him under subsection 31 only upon the direction in writing of the sinking fund committee.

Release of securities by Treasurer of Ontario

(33) All sinking fund debentures issued on the same date, payable in the same currency, and maturing on the same date, notwithstanding they are issued under one or more by-laws, shall be deemed one debt and be represented by one sinking fund account.

Sinking fund accounts

(34) That proportion of the amount of all earnings in any year, on an accrual basis, from sinking fund investments, obtained by,

Earnings credited to sinking fund account

- (a) multiplying the amount of all such earnings by the amount of the capitalized interest for that year under subsection 20 with respect to the principal raised up to and including such year for all sinking fund debentures represented by any sinking fund account; and
- (b) dividing the product obtained under clause *a* by the amount of all capitalized interest for that year under subsection 20 with respect to all principal raised up to and including such year for all outstanding sinking fund debentures,

shall be credited to the sinking fund account, mentioned in clause *a*.

(35) The treasurer of the District Corporation shall prepare and lay before the District Council in each year, before the annual district levies are made, a statement showing the sums that the District Council will be required, by by-law, to raise for sinking funds in that year.

Sinking fund requirements

(36) If the treasurer of the District Corporation contravenes subsection 21 or 35, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$250.

Offence

(37) If the District Council neglects in any year to levy the amount required to be raised for a sinking fund, each member of the District Council is disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount.

Failure to levy



Where  
amount in  
sinking fund  
account  
more than  
sufficient  
to pay debt

(38) Notwithstanding this or any other Act or by-law, if it appears at any time that the amount at the credit of any sinking fund account will be more than sufficient, with the estimated earnings to be credited thereto under subsection 34 together with the levy required to be made by the by-law or by-laws that authorized the issue of the debentures represented by such sinking fund account, to pay the principal of the debt represented by such sinking fund account when it matures, the Municipal Board, on the application of the sinking fund committee, the District Council or the council of an area municipality, may authorize the District Council or the council of an area municipality reduce the amount of money to be raised with respect to such debt in accordance with the order of the Municipal Board.

No diversion  
of sinking  
funds

(39) No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the District Corporation or otherwise than is provided in this section.

Surplus

(40) When there is a surplus in a sinking fund account, the sinking fund committee shall,

- (a) use the surplus to increase the amount at the credit of another sinking fund account; or
- (b) authorize the withdrawal of the surplus from the consolidated bank accounts, and the surplus shall be used for one or more of the following purposes,
  - (i) to retire unmatured debentures of the District Corporation or of an area municipality,
  - (ii) subject to the approval of the Municipal Board, to reduce the next annual levy on account of principal and interest payable with respect to debentures of the District Corporation or of an area municipality,
  - (iii) to reduce the amount of debentures to be issued for other capital expenditures for which the issue of debentures has been approved by the Municipal Board,

and the surplus shall be used under either clause *a* or *b* for the purposes of the District Corporation or an area municipality in the proportion that the amount of the contribution for the purposes of each bears to the total contributions to the sinking fund account in connection with which the surplus arose.

Deficit and  
surplus

(41) Notwithstanding that any sinking fund debentures have been issued for the purposes of one or more area municipalities, any deficit in the sinking fund account shall be provided by the District Corporation out of its current funds and any surplus in the sinking fund account shall be used as provided in subsection 40. 1970, c. 32, s. 118.

**112.**—(1) If the Municipal Board is of the opinion that the current rate of interest so differs from the rate of interest payable on any debentures that remain unsold or undisposed of that the sale or disposal thereof may substantially decrease or increase the amount required to be provided under the by-law under which such debentures were issued, the Municipal Board may authorize the District Council to pass a by-law to amend such by-law so as to provide for,

When rate of interest may be varied

- (a) a different rate of interest;
- (b) a change in the amount to be raised annually and, if necessary, in the special levies;
- (c) such other changes in such by-law or any other by-law as to the Municipal Board may seem necessary to give effect thereto;
- (d) the issue of new debentures to bear interest at the amended rate in substitution and exchange for such first-mentioned debentures; and
- (e) the cancellation of such first-mentioned debentures upon the issue of such new debentures in substitution and exchange therefor.

(2) For the purposes of this section, the hypothecation of debentures under section 110 shall not constitute a sale or other disposal thereof.

Hypothecation not a sale under this section

(3) The District Council may by one by-law authorized under subsection 1 amend two or more by-laws and provide for the issue of one series of new debentures in substitution and exchange for the debentures issued thereunder.

Consolidation of debentures

(4) A by-law passed under this section does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the District Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the District Council. 1970, c. 32, s. 119.

Special assessment and levies

**113.**—(1) Where part only of a sum of money provided for by a by-law has been raised, the District Council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually.

Repeal of by-law when part only of money to be raised

(2) The repealing by-law shall recite the facts on which it is founded, shall provide that it shall take effect on the 31st day of December in the year of its passing, shall not affect any rates or levies due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. 1970, c. 32, s. 120.

When to take effect

Until debt  
paid certain  
by-laws  
cannot be  
repealed

**114.**—(1) Subject to section 113, after a debt has been contracted under a by-law, the District Council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating, for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source, and shall not alter any such by-law so as to diminish the amount to be raised annually and shall not apply to any other purpose any money of the District Corporation that has been directed to be applied to such payment.

Application  
of payments

(2) When the District Corporation, by or under the authority of this Act, pays to an area municipality any amount of principal and interest becoming due upon any outstanding debentures issued by the area municipality, neither the council of the area municipality nor any officer thereof shall apply any of the money so paid for any purpose other than the payment of the amounts of principal and interest so becoming due. 1970, c. 32, s. 121.

Offence for  
neglect of  
officer to  
carry out  
by-law

**115.** Any officer of the District Corporation whose duty it is to carry into effect any of the provisions of a money by-law of the District Corporation who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be raised annually under it, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1970, c. 32, s. 122.

Money  
by-laws  
may be  
registered

**116.**—(1) Within four weeks after the passing of a money by-law, the clerk may register a duplicate original or a copy of it, certified under his hand and the seal of the District Corporation, in the Registry Office for the Registry Division of the Judicial District.

Application  
to quash  
registered  
by-law,  
when to be  
made

R.S.O. 1970,  
cc. 323, 136,  
255

(2) Subject to section 61 of *The Ontario Municipal Board Act*, every by-law registered in accordance with subsection 1, or before the sale or other disposition of the debentures issued under it, and the debentures are valid and binding, according to the terms thereof, and the by-law shall not be quashed, unless within one month after the registration in the case of by-laws passed under *The Drainage Act*, or *The Local Improvement Act*, and in the case of other by-laws, within three months after the registration, an application or action to quash the by-law is made to or brought in a court of competent jurisdiction, and a certificate under the hand of the proper officer of the court and its seal, stating that such application has been made or action brought, is registered in such registry office within such period of three months, or one month, as the case may be.

Time when  
by-law to be  
valid and  
binding

(3) After the expiration of the period prescribed by subsection 2, if no application or action to quash the by-law is made or brought, the by-law is valid and binding according to its terms.

(4) If an application or action to quash the by-law is made or brought within the period prescribed by subsection 2, but part only of the by-law is sought to be quashed, the remainder of it, if no application or action to quash it is made or brought within that period, is, after the expiration of that period, valid and binding according to its terms.

Quashing  
part of  
by-law

(5) If the application or action is dismissed in whole or in part, a certificate of the dismissal may be registered, and after such dismissal and the expiration of the period prescribed by subsection 2, if it has not already expired, the by-law, or so much of it as is not quashed, is valid and binding according to its terms.

Dismissal of  
application

(6) Nothing in this section makes valid a by-law passed without the assent of the electors of an area municipality as required by subsection 2 of section 108 or a by-law where it appears on the face of it that any of the provisions of subsection 5 of section 111 have not been substantially complied with.

Illegal by-  
laws not  
validated

(7) Failure to register a by-law as prescribed by this section does not invalidate it. 1970, c. 32, s. 123.

Failure to  
register

**117.**—(1) A debenture or other like instrument shall be sealed with the seal of the District Corporation, which seal may be engraved, lithographed, printed or otherwise mechanically reproduced thereon, and, subject to subsection 3, shall be signed by the chairman or by some other person authorized by by-law of the District Corporation to sign it, and by the treasurer.

Debentures,  
how sealed  
and executed

(2) A debenture may have attached to it interest coupons that shall be signed by the treasurer and his signature to them may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and such interest coupons are sufficiently signed if they bear the signature of the treasurer on the date the District Council authorized the execution of the debenture or on the date the debenture bears or at the time the debenture was issued and delivered.

Interest  
coupons

(3) The signature of the chairman, or such other person authorized by by-law to sign the debentures or other like instruments, may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and, if the debentures or other like instruments are countersigned in writing by a person authorized by by-law of the District Corporation to countersign, the signature of the treasurer may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Mechanical  
reproduction  
of signatures

(4) The seal of the District Corporation when so engraved, lithographed, printed or otherwise mechanically reproduced has the same force and effect as if manually affixed and the signature of the chairman or such other person authorized by by-law to sign

Effect of  
mechanical  
reproduction



the debentures or other like instruments and, if the debentures or other like instruments are countersigned, the signature of the treasurer when so engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the chairman or other person so authorized to sign or of the treasurer, as the case may be, and is binding upon the District Corporation.

Sufficiency  
of signatures

(5) Any debenture or other like instrument is sufficiently signed and countersigned if it bears the signatures of the persons provided in this section if such persons had authority to sign and countersign as provided in this section either on the date the District Council authorized the execution of such instrument or on the date such instrument bears or at the time it was issued and delivered. 1970, c. 32, s. 124.

Debentures  
on which  
payment has  
been made  
for one year  
to be valid

**118.** Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture that has matured has been paid by the District Corporation, the by-law and the debentures issued under it are valid and binding upon the District Corporation. 1970, c. 32, s. 125.

Mode of  
transfer may  
be prescribed

**119.**—(1) Where a debenture contains or has endorsed upon it a provision to the following effect:

This debenture, or any interest therein, is not, after a certificate of ownership has been endorsed thereon by the treasurer of this Corporation (or by such other person authorized by by-law of this Corporation to endorse such certificate of ownership), transferable except by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book of the Corporation at the

.....  
.....  
of .....

the treasurer (or such other person so authorized), on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book, to be called the Debenture Registry Book, a copy of the certificate and of every certificate that is subsequently given, and shall also enter in such book a memorandum of every transfer of such debenture.

Require-  
ments as to  
endorsing  
certificate of  
ownership

(2) A certificate of ownership shall not be endorsed on a debenture except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, and, if the person last entered as owner of it is a corporation, the written authority of such corporation, or its successors, which authority shall be retained and filed by the treasurer.

(3) After a certificate of ownership has been endorsed, the debenture, if it contains or has endorsed upon it a provision to the like effect of the provision contained in subsection 1, is transferable only by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book as and when a transfer of the debenture is authorized by the then owner of it or his executors or administrators or his or their attorney and, if the then owner of it is a corporation, the written authority of such corporation, or its successors. 1970, c. 32, s. 126.

Transfer by  
entry in  
Debenture  
Registry  
Book

**120.** Where a debenture is defaced, lost or destroyed, the District Council may by by-law provide for the replacing of the debenture on the payment of such fee and on such terms as to evidence and indemnity as the by-law may provide. 1970, c. 32, s. 127.

Replacement  
of lost  
debentures

**121.**—(1) On request of the holder of any debenture issued by the District Corporation, the treasurer of the District Corporation may issue and deliver to such holder a new debenture or new debentures in exchange therefor for the same aggregate principal amount.

Exchange of  
debentures

(2) On the request of the sinking fund committee, the treasurer of the District Corporation may, as provided in this section, exchange debentures heretofore or hereafter issued by the District Corporation.

On request  
of sinking  
fund  
committee

(3) Any new debentures mentioned in subsection 1 may be registered as to principal and interest but in all other respects shall be of the same force and effect as the debenture or debentures surrendered for exchange.

New debentures of same  
force and  
effect as  
debentures  
surrendered

(4) The treasurer and auditor of the District Corporation shall cancel and destroy all debentures surrendered for exchange and shall certify in the Debenture Registry Book that they have been cancelled and destroyed and shall also enter in the Debenture Registry Book particulars of any new debenture issued in exchange. 1970, c. 32, s. 128.

Debentures  
surrendered  
for exchange  
to be  
cancelled

**122.**—(1) The moneys received by the District Corporation from the sale or hypothecation of any debentures to the extent that such moneys are required for the purposes for which the debentures were issued, and for the repayment of any outstanding temporary loans with respect thereto, shall be used only for such purpose or purposes.

Application  
of proceeds  
of debentures

(2) None of the moneys received by the District Corporation from the sale or hypothecation of any debentures shall be applied towards payment of the current or other expenditures of the District Corporation or an area municipality.

Idem

## Surplus

(3) Where, on the sale of any debenture, an amount is realized in excess of that required for the purpose or purposes for which the debentures were issued, the excess amount shall be applied,

- (a) if any such debentures are redeemable prior to maturity at the option of the District Corporation, to redeem one or more of the debentures having the latest maturity date;
- (b) to reduce the next annual levy on account of principal and interest payable with respect to such debentures; or
- (c) to reduce the amount of debentures to be issued for other capital expenditures of a similar nature for which the issue of debentures has been approved by the Municipal Board, provided that the principal and interest charges of such debentures are levied upon the assessment of the same class of ratepayers as was levied upon for the principal and interest charges of the debentures with respect to which the excess arose.

## Deficiency

(4) Where, on the sale of any debentures, a deficiency in the amount required for the purpose or purposes for which the debentures were issued is sustained, the amount of such deficiency shall be added to the sum to be raised for the first annual payment of principal and interest with respect to the debentures and the levy made in the first year for such purpose or purposes shall be increased accordingly or shall be raised by the issue of other debentures approved by the Municipal Board for the same or any similar purpose or purposes. 1970, c. 32 s. 129.

Use of  
proceeds of  
sale of  
assets ac-  
quired from  
proceeds of  
sale of  
debentures

**123.** Where real or personal property acquired out of moneys received by the District Corporation from the sale or hypothecation of any debentures is disposed of by sale or otherwise, the net proceeds of such disposal shall be applied as an excess in accordance with subsection 3 of section 122 or, with the approval of the Municipal Board, may be applied to meet the whole or a portion of any other capital expenditure the debt charges for which, if raised by taxation, would be raised by taxation levied upon the assessment of the same class of ratepayers as was levied upon for the principal and interest charges of the debentures issued in respect of the property disposed of or sold. 1970, c. 32, s. 130.

Tenders for  
debentures

**124.** When the District Corporation intends to borrow money on debentures under this or any other Act, the District Council may prior to the issue thereof call for tenders for the amount of money required and the person tendering shall specify the rate of interest the debentures shall bear when issued at par. 1970, c. 32, s. 131.

**125.**—(1) The District Council shall,

- (a) keep a separate account of every debenture debt;
- (b) where the whole of a debenture debt is not payable in the current year, keep in respect thereof,
  - (i) an additional account for the interest, if any, and
  - (ii) an additional account for the sinking fund or the instalments of principal,

Accounts,  
how to be  
kept

distinguished from all other accounts by a prefix designating the purpose for which the debenture debt was contracted; and

- (c) keep the accounts so as to exhibit at all times the state of every debt, and the amount of money raised, obtained and appropriated for the payment of it.

(2) The District Council may by by-law provide and direct that instead of a separate account of the interest upon every debt being kept, a consolidated account of the interest upon all debts may be kept, but which consolidated account shall be so kept that it will be possible to determine therefrom the true state of the interest account upon every debt and that provisions has been made to meet the interest upon every debt. 1970, c. 32, s. 132.

Consolidated  
interest  
account

**126.** If, in any year after paying the interest and appropriating the necessary sum in payment of the instalments, there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or in payment of the principal. 1970, c. 32, s. 133.

Application  
of surplus  
money

**127.**—(1) If the District Council applies any money raised for a special purpose or collected for a sinking fund in paying current or other expenditure, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Liability of  
members

(2) If the District Council, upon the request in writing of a ratepayer of any area municipality, refuses or neglects for one month to bring an action therefor, the action may be brought by any such ratepayer on behalf of himself and all other ratepayers in the District Area.

Action by  
ratepayer

(3) The members who vote for such application are disqualified from holding any municipal office for two years. 1970, c. 32, s. 134.

Disqualifi-  
cation

**128.** When, by or under the authority of this Act, the District Corporation is or becomes liable for the payment to an area municipality of all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality, the District Corporation may, with the approval of the Municipal Board,

Refinancing  
of debentures



- (a) cancel all such debentures that have not been sold and issue new debentures of the District Corporation in substitution and exchange therefor and apply the proceeds thereof, as may be directed by the Municipal Board, for the purposes for which such debentures were issued;
- (b) arrange with the area municipality for the redemption of all such debentures as are redeemable and issue new debentures of the District Corporation to raise the moneys required for such redemption;
- (c) purchase, by agreement with the owner or owners thereof, all such debentures of a single issue of the area municipality, and issue new debentures of the District Corporation to raise the money required to complete such purchase. 1970, c. 32, s. 135.

Disposal  
of assets

**129.** After the 15th day of May in the year 1970, no local municipality shall, without the approval of the Ontario Municipal Board, dispose of any asset purchased at a cost of, or valued at, more than \$5,000. 1970, c. 32, s. 136.

## PART IX

### GENERAL

Application  
of  
R.S.O. 1970,  
c. 284

**130.**—(1) Section 5, Parts XV, XVI, XVII and XXI, sections 249 and 254 and paragraphs 3 and 24 of section 352 of *The Municipal Act* apply *mutatis mutandis* to the District Corporation, and, for the purposes of section 394 of *The Municipal Act*, the District Corporation shall be deemed to be a local municipality.

Exceptions

(2) Sections 10 and 11, and, subject to subsection 2 of section 2, subsection 2 of section 14 of *The Municipal Act* do not apply to any area municipality except in relation to alterations of boundaries, within the District Area, of area municipalities, which alterations, in the opinion of the Municipal Board, are of a minor nature.

Nuisances

(3) The District Corporation shall be deemed to be a local municipality for the purpose of paragraph 120 of subsection 1 of section 354 of *The Municipal Act*.

Delegation  
of approval  
and  
consents

(4) Notwithstanding any other provision in this Act, the District Council may pass by-laws authorizing the head of the department concerned to grant such of the approvals and consents required by subsection 1 of section 34, subsection 2 of section 35 and subsection 2 of section 49 as are designated in the by-law, and any such by-law may prescribe terms and conditions under which any such approval or consent may be granted.

(5) For the purposes of *The Construction Safety Act*, the District Corporation shall be deemed to be a county and the area municipalities shall be deemed to be the local municipalities that form part of the county for municipal purposes.

Deemed  
county for  
R.S.O. 1970,  
c. 81

(6) Every by-law of a local municipality as it exists on the 31st day of December, 1970, shall remain in force in the area of the former local municipality on and after the 1st day of January, 1971, until repealed by the council of an area municipality as it affects such area municipality. 1970, c. 32, s. 138.

By-laws to  
remain in  
force

**131.**—(1) The District Council may pass by-laws,

- (a) for the establishment and maintenance of an emergency measures civil defence organization in the District Area; and
- (b) for providing moneys for emergency measures and civil defence, for the purposes of the emergency measures civil defence organization and for the cost of the operation of such organization, and for other similar work in the District Area,

Emergency  
measures  
and civil  
defence

and when a by-law passed under this subsection is in force in the District Area any by-laws passed by the council of an area municipality under subclauses ii and iii of clause b of section 353 of *The Municipal Act* have no effect.

R.S.O. 1970  
c. 284

(2) When a by-law passed under clause a of subsection 1 is in force, the District Council may pass by-laws,

Powers of  
District  
Council

- (a) with the consent of the area municipality or local board concerned, for appointing heads of departments and alternates to be members of or advisers to the emergency measures planning committee or any subcommittee thereof;
- (b) with the consent of the area municipality or local board concerned, for training employees of the area municipality or local board in their emergency functions;
- (c) for appointing members of the emergency measures planning committee or of any subcommittee thereof, to be in charge of such departments or utilities throughout the District Area, as the by-law may provide, when an emergency has been proclaimed under the *War Measures Act* (Canada) or under *The Emergency Measures Act*;
- (d) for acquiring alternative headquarters for the District Government outside the District Area;
- (e) for obtaining and distributing emergency materials, equipment and supplies; and

R.S.C. 1952,  
c. 288  
R.S.O. 1970,  
c. 145

- (f) for complying with any request of the Government of Canada or of Ontario in the event of a nuclear attack. 1970, c. 32, s. 139.

Expendi-  
tures for  
diffusing  
information

**132.** The District Corporation may make expenditures not exceeding \$50,000 in any one year for the purpose of diffusing information respecting the advantages of the district municipality as an industrial, business, educational, residential or vacation centre and may make annual grants for a period not exceeding five years, and upon the expiration of any such period may make similar grants for a further period not exceeding five years. 1970, c. 32, s. 140.

Grants to  
persons  
engaged  
in work  
advan-  
tageous to  
District  
Area

**133.** The District Council may make annual grants, not to exceed in any year a sum calculated at one-tenth of one mill in the dollar upon the total assessment upon which the district levy is apportioned in that year among the area municipalities under subsection 3 of section 92, to institutions, associations and persons carrying on or engaged in works that in the opinion of the District Council are for the general advantage of the inhabitants of the District Area and for which grant or grants there is no express authority provided by any other Act. 1970, c. 32, s. 141.

Payment of  
damages to  
employees  
R.S.O. 1970,  
c. 506

**134.** Where, in an action or by the settlement of a claim arising out of an injury to an employee or to any person deemed an employee for the purposes of *The Workmen's Compensation Act*, the District Corporation recovers damages from a third person, such damages or any portion thereof may be paid to such employee or person or, in the event of his death, to one or more of his dependants, upon such terms and conditions as the District Corporation may impose. 1970, c. 32, s. 142.

Investiga-  
tion by  
judge of  
charges of  
malfeasance

**135.**—(1) Where the District Council passes a resolution requesting a judge of the district court within the District Area or a judge of the county court or district court of a county or district adjoining the District Area to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the District Council, or an officer or employee of the District Corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, employee or other person to the District Corporation, or to inquire into or concerning any matter connected with the good government of the District Corporation or the conduct of any part of its public business, including any business conducted by a local board of the District Corporation, the judge shall make the inquiry and for that purpose has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*, and he shall with all convenient speed report to the District Council the result of the inquiry and the evidence taken.

R.S.O. 1970,  
c. 379

(2) The judge shall be paid by the District Corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under *The Judicature Act*.

Fees payable to judge  
R.S.O. 1970, c. 228

(3) The District Council may engage and pay counsel to represent the District Corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the District Corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel.

Engaging counsel

(4) The judge may engage counsel and such other assistants and staff and incur such incidental expenses as he considers advisable for the proper conduct of the investigation or inquiry, and the District Corporation shall pay the costs thereof. 1970, c. 32, s. 143.

Idem

**136.**—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may issue a commission to inquire into any of the affairs of the District Corporation or a local board thereof, and any matter connected therewith, and the commissioner has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*.

Commission of inquiry

R.S.O. 1970, c. 379

(2) A commission may be recommended at the instance of the Department or upon the request in writing of not less than one-third of the members of the District Council, or of not less than fifty ratepayers of an area municipality assessed as owners and resident therein.

When commission may issue

(3) The expenses of and incidental to the execution of the commission, including the fees and disbursements of the commissioner, shall be fixed and certified by the Minister and are subject to such division between the District Corporation and the Province of Ontario as the Lieutenant Governor in Council may direct. 1970, c. 32, s. 144.

Expenses of commission

**137.** The District Corporation for its purposes may enter, break up, dig and trench in, upon and under the highways, lanes and other public communications of any area municipality and may construct and maintain therein pipes, sewers, drains, conduits and other works necessary for its purposes, without making compensation therefor, but all such highways, lanes and other public communications shall be restored to their original condition without unnecessary delay. 1970, c. 32, s. 145.

Entry on highways

**138.** The District Corporation and any area municipality may enter into agreements for the use within any part of the District Area of the services of their respective officers, employees and equipment. 1970, c. 32, s. 146.

Agreements re services



Application  
of R.S.O. 1970,  
c. 32

**139.**—(1) For the purposes of paragraph 9 of section 3 and section 35 of *The Assessment Act*, the District Corporation shall be deemed to be a municipality.

District  
Corporation  
and area  
municipali-  
ties not  
deemed  
tenants

(2) For the purposes of paragraph 9 of section 3 of *The Assessment Act*, where property belonging to the District Corporation is occupied by an area municipality or where property belonging to an area municipality is occupied by the District Corporation or another area municipality, the occupant shall not be deemed to be a tenant or lessee, whether rent is paid for such occupation or not.

Interpre-  
tation

(3) In subsection 2, “District Corporation” and “area municipality” include a local board thereof. 1970, c. 32, s. 147.

Executions  
against  
District  
Corporation

**140.**—(1) An execution against the District Corporation may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings therein shall then be the following:

1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer of the District Corporation, or leave such copy at the office or dwelling place of that officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including the interest calculated to some day as near as is convenient to the day of the service.
2. If the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment rolls of all the area municipalities and shall, in like manner as the levies of the District Council for general purposes are apportioned among the area municipalities determine the portion of the amount mentioned in the statement that shall be levied against and in each area municipality.
3. The sheriff shall then in like manner as rates struck for general municipal purposes within each area municipality strike a rate sufficient in the dollar to cover its share of the amount due from the execution, and in determining such amount he may make such addition to the same as the sheriff considers sufficient to cover its share of the interest up to the time when the rates will probably be available and his own fees and poundage.
4. The sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the area municipality, and shall annex to the precept the roll of such rate and shall by the precept, after reciting the writ and that the District Corporation has neglected to

satisfy the same, and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect of the general annual rates.

5. If at any time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year, he shall add a column thereto, headed "Execution rate in A.B. vs The District Municipality of Muskoka" (Adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon.
6. The sheriff shall, after satisfying the execution and all the fees and poundage thereon, pay any surplus, within ten days after receiving the same, to the treasurer of the area municipality.

(2) The clerk, assessor and collector of each area municipality shall, for all purposes connected with carrying into effect or permitting or assisting the sheriff to carry into effect, the provisions of this Act with respect to such execution, be deemed to be officers of the court out of which the writ issued, and as such are amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. 1970, c. 32, s. 148.

Functions of clerk, etc.

**141.** In the event of any doubt as to whether any particular asset or liability is vested in the District Corporation under this Act, the Municipal Board upon application has power to determine the matter as sole arbitrator and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such power. 1970, c. 32, s. 149.

Settling of doubts

R.S.O. 1970, c. 323

**142.** The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all such acts or things not specifically provided for in this Act that are considered necessary or advisable to carry out effectively the intent and purposes of this Act. 1970, c. 32, s. 150.

Conditional powers

**143.** The provisions of this Act apply notwithstanding the provisions of any general or special Act and, in the event of any conflict between this Act and any general or special Act, this Act prevails. 1970, c. 32, s. 151.

Conflict with other Acts

Municipal  
buildings

**144.**—(1) The District Corporation or an area municipality or the District Corporation and one or more area municipalities,

- (a) may acquire land for the purpose of constructing municipal buildings; and
- (b) may construct municipal buildings for the use of the District Corporation or the District Corporation and one or more area municipalities or any local board thereof.

Application  
of  
R.S.O. 1970,  
c. 284

(2) Section 256 of *The Municipal Act* applies *mutatis mutandis* to any joint undertaking under this section. 1970, c. 32, s. 152.

District  
Fire Co-  
ordinator

**145.** The District Corporation shall appoint a District Fire Co-ordinator who shall be responsible for the establishment of an emergency fire service plan and program for the District Area and the District Corporation is authorized to expend such sums as it considers necessary to implement such plan and program. 1970, c. 32, s. 153.

Recreation  
and parks  
manage-  
ment boards

**146.** The Minister may by order, on the request of any area municipality, dissolve any board of a community centre or board of recreation or park management of the area municipality and transfer the assets and liabilities of such board to the area municipality and may deem the council of the area municipality to be a recreation committee under *The Department of Education Act* and the regulations thereunder and a board of a community centre under *The Community Centres Act*. 1970, c. 32, s. 154.

R.S.O. 1970,  
cc. 111, 73

Deemed  
municipality  
under  
R.S.O. 1970,  
c. 284, s. 352  
par. 9

**147.**—(1) The District Corporation shall be deemed to be a local municipality for the purposes of paragraph 9 of section 352 of *The Municipal Act*.

Deemed  
regional  
municipality  
R.S.O. 1970,  
cc. 461, 78

(2) The District Corporation shall be deemed to be a regional municipality for the purposes of *The Tile Drainage Act* and *The Conservation Authorities Act*. 1970, c. 32, s. 155.

Bracebridge,  
Gravenhurst  
and  
Huntsville  
deemed  
townships

**148.**—(1) The area municipalities of Bracebridge, Gravenhurst and Huntsville shall be deemed to be townships for the purposes of paragraphs 1, 2, 3 and 4 of section 376 of *The Municipal Act*.

Application  
of  
R.S.O. 1970,  
c. 284, s. 244  
in 1970

(2) The provisions of section 244 of *The Municipal Act* do not apply in the year 1970 to any local municipality in the District Area. 1970, c. 32, s. 156.

Interpre-  
tation

**149.**—(1) In this section, “waste” includes ashes, garbage, refuse and domestic or industrial waste of any kind.

(2) Where an area municipality has requested the District Corporation to provide facilities for the purpose of receiving, dumping and disposing of waste, the District Corporation and the area municipality may enter into an agreement for the use and operation of such facilities.

Agreement

(3) For the purposes of an agreement under subsection 2, the District Corporation may acquire and use land within the District Area and may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of receiving, dumping and disposing of waste, and may contract with any person for such purposes, and may prohibit or regulate the dumping and disposing of waste or any class or classes thereof upon any such land, and may charge fees for the use of such property, which fees may vary in respect of different classes of waste.

Waste disposal sites

(4) A by-law passed under paragraph 116 of subsection 1 of section 354 of *The Municipal Act* does not apply to the District Corporation.

Application of land use control by-law

(5) For the purposes of subsection 3, paragraph 77 of subsection 1 of section 354 of *The Municipal Act* applies *mutatis mutandis*. 1970, c. 32, s. 157.

Acquisition of land for waste disposal

**150.**—(1) Notwithstanding the other provisions of this Act but subject to subsections 2 and 3, for the purposes of section 82 of *The Highway Traffic Act* the areas in the District Area that, on the 31st day of December, 1970, formed part of a town, village or township municipality shall be deemed to continue to form part of a town, village or township municipality.

Existing speed limits continued  
R.S.O. 1970, c. 202

(2) Notwithstanding subsection 1, the District Council and the council of each area municipality may exercise any of its powers under section 82 of *The Highway Traffic Act* in respect of highways under its jurisdiction and control. 1970, c. 32, s. 158 (1, 2).

By-laws of District Council and area councils

(3) Every by-law passed by the council of a municipality under any provision of section 59 of *The Highway Traffic Act*, being chapter 172 of the Revised Statutes of Ontario, 1960, that applied, on the 31st day of December 1970, to any highway or portion thereof within the District Area shall continue to apply thereto until a by-law passed by the District Council or the council of an area municipality under section 82 of *The Highway Traffic Act* applies thereto. 1970, c. 32, s. 158 (3), *amended*.

Existing by-laws under s. 59 of R.S.O. 1960, c. 172, continued

R.S.O. 1970, c. 202

**151.** The lands in the Township of Muskoka more particularly described as follows:

Gravel pit vested in Town of Gravenhurst

COMMENCING at the southeast angle of Lot 4 Concession X, Township of Muskoka, District of Muskoka.



THENCE westerly along the southerly boundary a distance of 300 feet to a point east of a road known as the Switch Road;

THENCE northerly following the easterly limit of the said Switch Road a distance of 150 feet;

THENCE northeasterly in a direct line for a distance of 500 feet more or less to a point in the easterly limit of the said Lot 4 that is distant northerly thereon 575 feet from the southeasterly angle thereof;

THENCE southerly following the easterly limit of the said Lot a distance of 575 feet to the point of commencement,

are hereby, on the 1st day of January, 1971, vested in the Town of Gravenhurst without payment of compensation, and the clerk of the Town of Gravenhurst shall forthwith after this section comes into force file a copy of this section in the appropriate registry or land titles office. 1970, c. 32, s. 159.

Application  
of  
R.S.O. 1970,  
c. 354, s. 111

**152.**—(1) On and after the 1st day of January, 1971, no area municipality shall be required to comply with section 111 of *The Power Commission Act*.

Powers of  
utilities  
commissions  
transferred  
to area  
municipality  
or District  
Corporation

(2) The public utilities commissions that have control and management of the distribution and supply of electrical power and energy and hydro-electric commissions within the District Area are continued for the year 1971 as local boards of the area municipality in which they have jurisdiction, and the powers and duties of every such public utility commission, except with respect to the distribution and supply of electrical power and energy, shall become on the 1st day of January, 1971, powers and duties of an area municipality or the District Corporation as required by this Act.

Distribution  
of electrical  
power

(3) Where, on the 31st day of December, 1970, The Hydro-Electric Power Commission of Ontario or a public utilities commission or a hydro-electric commission is supplying electrical power and energy in any area within the District Area, such commission shall continue until the 1st day of January, 1972, to distribute and sell power within such area.

Members of  
commissions  
continued  
in office

(4) The members of a public utilities commission or a hydro-electric commission referred to in subsection 2, including *ex-officio* members, who hold office when this section comes into force, shall continue to hold office until the 1st day of January, 1972, and in addition to such members, the mayor elected for the area municipality in which such a commission operates shall also be a member of such commission.

Commissions  
dissolved

(5) All public utilities commissions and waterworks commissions within the District Area except those referred to in subsection 2 are hereby dissolved on the 1st day of January, 1971, and no

area municipality shall entrust the construction, control and management of a waterworks or sewage system to any public utilities commission. 1970, c. 32, s. 160.

**153.**—(1) Notwithstanding section 92 of *The Secondary Schools and Boards of Education Act*, being chapter 362 of The Revised Statutes of Ontario, 1960, Election R.S.O. 1960, c. 362

- (a) the polling day for the members of the Muskoka Board of Education in the year 1970 shall be the 5th day of October, and the hours of polling shall be the same as for the municipal elections in the District Area; and
- (b) the Minister shall by order fix the days, times and places for the nomination of candidates for the Muskoka Board of Education in the year 1970 and provide for the holding of the nomination meetings,

and otherwise the provisions of such Act apply.

(2) Notwithstanding section 92 of such Act, any reference in such section to the 1st day of September shall be deemed to be a reference to the 1st day of August, and, subject to subsection 1, all other dates in such section shall be advanced by thirty days. 1970, c. 32, s. 161, *amended*. Determinations and appeals, etc.

**154.**—(1) Every local roads board and statute labour board that has jurisdiction in the District Area is dissolved on the 1st day of January, 1971, and all the assets and liabilities of such board become on such date assets and liabilities of the area municipality in which such board had jurisdiction. Roads boards, etc., dissolved

(2) All taxes and penalties assessed by a local roads board or statute labour board against any land which are due and unpaid on the 1st day of January, 1971, shall be deemed on such date to be taxes and penalties due and payable upon such land to the area municipality in which such land is situate, and the collector of the area municipality shall enter such taxes and penalties in the collector's roll and may collect them in the same manner as if such taxes had been levied and penalties imposed by the area municipality, and the collector shall forthwith notify the owner or his agent as shown on the register of such board that the taxes and penalties are due and payable to the area municipality. Taxes and penalties

(3) All moneys standing to the credit of a local roads board under section 31 of *The Local Roads Boards Act, 1964*, in relation to tax moneys received by the secretary-treasurer of the board up to the 1st day of January, 1971, shall be paid over by the Treasurer of Ontario to the area municipality in which the local roads board had jurisdiction. 1970, c. 32, s. 162. Credits of local roads boards, etc. 1964, c. 56

Expenditures

**155.** The expenditures of the District Corporation during the year 1970, as approved by the Department, shall be paid out of the Consolidated Revenue Fund. 1970, c. 32, s. 163.

FORM 1

(Section 9 (6) )

OATH OF ALLEGIANCE

I, . . . . ., having been elected (*or appointed*) as chairman of the council of The District Municipality of Muskoka, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me, etc.

1970, c. 32, Form 1.

FORM 2

(Section 9 (6) )

DECLARATION OF QUALIFICATION BY CHAIRMAN

I, . . . . ., having been elected (*or appointed*) as chairman of the council of The District Municipality of Muskoka, declare that:

- 1. I am a British subject and am not a citizen or a subject of any foreign country.
- 2. I am of the full age of twenty-one years.
- 3. I am not an officer, employee or servant of any area municipality or any local board of any area municipality.
- 4. I have not by myself or a partner, directly or indirectly, any interest in any contract with or on behalf of The District Municipality of Muskoka or any local board thereof or any area municipality or local board thereof.
- 5. I have taken the oath of allegiance (Form 1) which I attach hereto.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Declared before me, etc.

1970, c. 32, Form 2.

## CHAPTER 132

## The District Welfare Administration Boards Act

**1.** In this Act,Interpre-  
tation

- (a) “band” and “council of the band” have the same meaning as in the *Indian Act* (Canada); R.S.C. 1952,  
c. 149
- (b) “board” means a district welfare administration board established under section 3;
- (c) “council” means the council of a municipality, and includes the board of trustees of an improvement district;
- (d) “district” means an area in that part of Ontario forming the territorial districts as defined by the regulations;
- (e) “Minister” means the Minister of Social and Family Services;
- (f) “municipality” means a city, town, village, township, improvement district or band to which this Act applies as determined under section 2;
- (g) “regulations” means the regulations made under this Act;
- (h) “welfare services” means,
  - (i) any class of assistance administered under *The General Welfare Assistance Act*, R.S.O. 1970,  
c. 192
  - (ii) the services of a homemaker or nurse that are furnished under *The Homemakers and Nurses Services Act*, R.S.O. 1970,  
c. 203
  - (iii) the expenditures for the hospitalization of indigent persons,
  - (iv) expenditures for the operating costs of children’s aid societies,
 and includes such other welfare services as are designated by the regulations. 1962-63, c. 37, s. 1; 1966, c. 46, s. 1; 1968-69, c. 29, s. 1; 1970, c. 90, s. 1.

**2.—**(1) This Act applies to the towns, villages, townships and improvement districts in each district. 1968-69, c. 29, s. 2, *part.* Application

(2) Any city or band in a district where a board is established may, at the request of the council of the city or band, as the case may be, and with the approval of the board and the Director of City or  
band in a  
district



the General Welfare Assistance Branch of the Department of Social and Family Services, be a municipality to which this Act applies. 1970, c. 90, s. 2.

Establish-  
ment of  
district  
welfare  
administra-  
tion board

**3.**—(1) A district welfare administration board shall be established and maintained for a district by all the towns, villages, townships and improvement districts in the district when by-laws authorizing the establishment of the board have been passed by a majority of all those municipalities in the district. 1970, c. 90, s. 3.

Transmission  
of by-law

(2) When a by-law is passed under subsection 1, a certified copy thereof shall be transmitted forthwith to the Minister.

Composition  
of board

(3) A board shall be a corporation and shall consist of,

(a) not fewer than three and not more than five members appointed jointly by all the municipalities in the district for a term not exceeding one year expiring on the 1st day of April in each year; and

(b) two members appointed by the Lieutenant Governor in Council for a term not exceeding three years.

Municipal  
members

(4) Each member of a board appointed by the municipalities shall, when appointed, be a member of the council of a municipality in the district, and, where a member of the board ceases to be a member of a council before his term as a member of the board has expired, he may complete the unexpired portion of his term. 1962-63, c. 37, s. 3 (2-4).

Powers and  
duties of  
boards

**4.**—(1) Where a board is established for a district, all the powers, duties and responsibilities that are given by any other Act to the councils of the municipalities in the district in respect of the provision and administration of welfare services are vested in the board.

Welfare  
adminis-  
trator

(2) Every board shall, with the approval of the Minister, appoint a welfare administrator and such other staff as is necessary. 1962-63, c. 37, s. 4.

Payments  
for welfare  
services  
made to  
board

**5.** Where a board is established for a district, any contribution that is payable by Ontario for welfare services to a municipality in the district shall be paid instead to the board. 1962-63, c. 37, s. 5, *amended*.

Assessment  
to be  
revised and  
equalized

**6.**—(1) For the purposes of this Act, the Department of Municipal Affairs shall in each year revise and equalize the assessment rolls of the municipalities, other than bands, in each district for which a board is established and in so doing shall, where applicable, add to the valuation of each municipality,

(a) the amounts obtained under subsections 2 and 3 of section 72 of *The Assessment Act*, as varied by subsection 4 of section 72 of that Act and; R.S.O. 1970, c. 32

(b) the amounts credited to the municipality under section 304 of *The Municipal Act*. R.S.O. 1970, c. 284

(2) Any municipality in a district, other than a band, that is not satisfied with the last revised assessment of any municipality in the district, as equalized for the purpose of this Act, may appeal by notice in writing to the Ontario Municipal Board from the decision of the Department of Municipal Affairs, as varied by any amounts added in accordance with subsection 1, at any time within thirty days after the mailing of the equalized report to the appealing municipality by the Department of Municipal Affairs. Appeal

(3) Every report of an equalization made for the purposes of this Act shall set out the time within which an appeal may be made to the Ontario Municipal Board with respect to such equalization. Idem

(4) Subject to sections 7 and 8 each board shall in each year apportion among the municipalities in the district, in proportion to the amounts of their assessments according to the assessment rolls as revised and equalized in the immediately preceding year, the amounts that it estimates will be required to defray the expenditures for welfare services for that year, including the expenses incurred for the administration of welfare services, and shall on or before the 15th day of March notify the clerk of each such municipality of the amount to be provided by that municipality. Estimates and apportionment

(5) Subject to sections 7 and 8, where a board, after giving notice of its estimated expenditures under subsection 4, incurs during the year, additional costs for welfare services or for the administration of welfare services that were not anticipated at the time that the said notice was given, such additional costs shall be apportioned among the municipalities in accordance with subsection 4 and the board shall notify the clerk of each such municipality of the additional amount to be provided by that municipality during the year. Where additional costs incurred

(6) In preparing the estimates, the board may provide for a reserve for working funds, but the amount of the reserve in a year shall not exceed 15 per cent of the total estimates of the board for the year. Reserve for working funds

(7) Where the actual expenditures of a board for any year are greater or less than the estimated expenditures for that year, the board shall, in preparing the estimates of the amount required to defray its expenditures for the next following year, Estimates

- (a) make due allowance for any surplus that will be available from the preceding year; or
- (b) provide for any deficit of the preceding year.

Payment by  
municipalities

(8) Each municipality shall pay the amounts required to be provided by it under this section, or determined by agreement under section 7, to the board on demand.

Penalty

(9) A board may impose on a municipality a percentage charge as a penalty for non-payment of amounts payable under this section not exceeding 1 per cent on the first day of default and on the first day of each calendar month thereafter in which default continues.

Where  
assessments  
not  
equalized  
in time

(10) Where in any year the last revised assessment rolls of the municipalities in the district are not equalized by the Department of Municipal Affairs under subsection 1 before the 10th day of February, the board may apportion the amount that it estimates to be required in proportion to the amounts of their assessments most recently equalized, and in that case shall reapportion the amount and make the necessary adjustments after the equalization is completed.

Where  
equalized  
assessment  
appealed

(11) Where in any year the last revised assessment rolls of the municipalities in a district are revised and equalized and have been appealed, the board may apportion the amount that it estimates to be required in proportion to the amounts of their assessments as revised and equalized, and in that case shall reapportion the amount and make the necessary adjustments in accordance with the decision of the Ontario Municipal Board or the judgment of a court. 1970, c. 90, s. 4.

Apportion-  
ment may be  
determined  
by agree-  
ment

**7.** Notwithstanding section 6, during the first four years that a city in a district is a municipality to which this Act applies, the apportionment among the municipalities in the district of the amount or any part thereof required in one or more of those years by the board for the provision of welfare services in respect of the municipalities, including the expenses incurred for the administration of such services, may be determined by an agreement in writing approved by the Minister between the board and the city. 1968-69, c. 29, s. 5.

Expendi-  
tures  
incurred in  
respect of  
band to be  
paid under  
agreement

**8.** Notwithstanding sections 6 and 7, where a band in a district is a municipality to which this Act applies, the amount or any part thereof required by the board for the provision of welfare services to the members of the band, including the expenses incurred for the administration of such services, shall not be apportioned among the municipalities in the district in accordance with section 6 or 7, but shall be paid by the council of the band to the board in accordance with an agreement in writing approved by the Minister between the board and the council of the band. 1970, c. 90, s. 5, *part*.

**9.**—(1) Subject to subsection 2, a board may borrow from time to time by way of a promissory note such sums as the board considers necessary to meet the current expenditures of the board until the current revenue is received. Power of board to borrow for current expenditures

(2) The amount that may be borrowed at any one time for the purpose mentioned in subsection 1 together with the total of any similar borrowings that have not been repaid shall not exceed 25 per cent of the estimated current revenue of the board for the current year. Maximum borrowings

(3) Until the estimates of the board for the current year under section 6 have been determined, the limitation upon borrowing prescribed in subsection 2 shall be temporarily calculated upon 25 per cent of the estimates for the board determined for the next preceding year. 1970, c. 90, s. 5, *part*. Idem

**10.** In the first year in which a board is established for a district, the Lieutenant Governor in Council may, out of the moneys appropriated therefor by the Legislature, direct payment to the board of a grant in an amount determined in accordance with the regulations to assist the board to carry out the purposes of this Act during the first year. 1962-63, c. 37, s. 7 (1); 1970, c. 90, s. 6. Provincial grant for first year

**11.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) adding to the welfare services mentioned in clause *h* of section 1;
- (b) defining districts for the purposes of clause *d* of section 1;
- (c) governing applications for grants under section 10, and the method, time and manner of the payment of the grants;
- (d) prescribing the manner of determining the amount of a grant for a district for the purposes of section 10;
- (e) providing for the appointment of a chairman of a board, and fixing the term of office of the chairman;
- (f) prescribing the records that shall be kept under this Act and the returns that shall be made to the Minister;
- (g) prescribing forms and providing for their use;
- (h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1962-63, c. 37, s. 9; 1966, c. 46, s. 4.





CHAPTER 133

The Dog Tax and Live Stock and  
Poultry Protection Act

1. In this Act,

Interpre-  
tation

- (a) “dog” means a male or female dog;
- (b) “Minister” means the Minister of Agriculture and Food;
- (c) “owner” of a dog includes a person who possesses or harbours a dog, and “owns” and “owned” have a corresponding meaning;
- (d) “pure-bred” means,
  - (i) registered or eligible for registration in the register of The Canadian Kennel Club, Incorporated, or
  - (ii) of a class designated as pure-bred in the regulations;
- (e) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 111, s. 1; 1968-69, c. 31, s. 1.

PART I

DOG TAX

2.—(1) Subject to section 5, an annual dog tax shall be levied in every local municipality upon every person who is assessed as owner or tenant of any land and who is in occupation thereof in respect of every dog that he owns in the municipality or that is habitually kept upon the premises for which he is assessed although the dog may be owned by some other person.

Levy of  
dog tax

(2) Where no by-law increasing the tax has been passed by the municipality under subsection 3, the amount of the tax shall be as follows:

Amount  
of tax

- 1. For a male dog, if only one is kept . . . . . \$2
- 2. For each additional male dog . . . . . 4
- 3. For a female dog, if only one is kept . . . . . 4
- 4. For each additional female dog . . . . . 6

(3) Any city, town, village or township may pass a by-law increasing the tax.

Increase  
of tax

Spayed  
females

(4) Where a certificate of a veterinary surgeon is produced showing that a female dog has been spayed, such female dog shall be taxed at the same rate as a male dog. R.S.O. 1960, c. 111, s. 2 (1-4).

Entry on  
assessment  
roll of  
number  
of dogs

**3.**—(1) The assessor shall enter upon the assessment roll opposite the name of every person assessed the number of male dogs, female dogs and spayed female dogs, respectively, for which the person is liable to be taxed.

Statement  
by owner  
of dogs

(2) A person when so required by the assessor shall forthwith deliver to him a statement in writing of the number of such dogs owned by him or that are habitually kept upon the premises for which he is assessed by whomsoever owned.

Offence

(3) Every assessor who fails to make all inquiry and to assess all dogs reported to him and every person who neglects or refuses to furnish the statement required by subsection 2 or who makes a false statement is guilty of an offence and on summary conviction is liable to a fine of not more than \$10.

Collection  
of tax

(4) The amount payable for dog tax shall be entered upon the collector's roll and the collector shall proceed to collect it in the same manner as other municipal taxes.

Killing of  
dog on  
failure to  
pay tax

(5) When the tax is demanded and is not paid, the person assessed may be summoned before a provincial judge who may order the dog to be destroyed unless the tax and costs are paid before a time named in the order.

Powers of  
constable

(6) For the purpose of carrying out such order, a constable may enter upon the premises of the owner and destroy the dog.

Offence

(7) Every collector who neglects to collect the tax or take the proceedings provided by this section before the time fixed for the return of his roll to the treasurer is guilty of an offence and on summary conviction is liable to a fine of not more than \$10. R.S.O. 1960, c. 111, s. 3, *amended*.

Dog tags

**4.**—(1) In a municipality in which the dog tax is levied every person in each year on or before the 15th day of February or on or before such earlier or later date as is fixed by by-law of the council shall procure from the clerk or the assessor a tag for each dog in respect of which he is liable for the dog tax and shall keep the tag securely fixed on the dog at all times during the year and until he procures a tag for the following year, except that the tag may be removed while the dog is being lawfully used for hunting deer in the bush.

Fee for tag

(2) A fee not exceeding 25 cents may be charged for each tag.

(3) The tag shall bear a serial number and the year in which it was issued and a record shall be kept by the clerk or other officer designated for that purpose showing the name and address of the owner and the serial number of the tag.

Serial  
number  
on tag

(4) Every person who fails to comply with subsection 1 or who uses a tag upon a dog other than that for which it was issued is guilty of an offence and on summary conviction is liable to a fine of not more than \$10.

Offence

(5) Where an owner of a dog applies to the clerk for a tag after the assessment roll has been returned and before the collector's roll has been delivered to the collector and the clerk finds that such owner has not been assessed for the dog, the owner shall forthwith make and deliver to the clerk the statement mentioned in subsection 2 of section 3 and the clerk shall make the necessary entries in the assessment roll and in the collector's roll, but, where the owner acquired the dog after the expiration of six months of the year, he shall be charged with only one-half of the dog tax. R.S.O. 1960, c. 111, s. 4.

Duties of  
clerk where  
owner of  
dog has  
not been  
assessed

**5.**—(1) By-laws may be passed by the councils of local municipalities for licensing and requiring the registration of dogs and for imposing a licence fee on the owners of them with the right to impose a larger fee in the case of female dogs or for each additional dog or female dog where more than one is owned by any one person or in any one household.

Licensing  
and regis-  
tration of  
dogs

(2) Where the licence fee is equal to or exceeds the dog tax required to be levied by this Part, sections 2 and 3 do not apply while the by-law remains in force.

Non-  
application  
of ss. 2  
and 3

(3) On payment of the licence fee, the owner shall be furnished with a dog tag and the provisions of subsections 1 and 4 of section 4 as to keeping the tag securely fixed on the dog, and subsections 2 and 3 of section 4 apply. R.S.O. 1960, c. 111, s. 5.

Application  
of section 4

**6.** The owner of a kennel of dogs that are pure-bred shall pay an annual tax of \$25 to the treasurer of the municipality as a tax upon the kennel, and he is not liable to pay in respect of such pure-bred dogs any tax under section 2 or any licence fee under a by-law passed pursuant to section 5. 1968-69, c. 31, s. 3, *part*.

Tax on  
kennel of  
pure-bred  
dogs

**7.**—(1) By-laws may be passed by councils of towns, townships and villages and of cities having a population of less than 100,000, and by boards of commissioners of police in cities having a population of not less than 100,000, for prohibiting or regulating the running at large of dogs in the municipality or in any defined

Prohibiting  
or regu-  
lating the  
running at  
large of  
dogs



area thereof, for seizing and impounding and for killing, whether before or after impounding, dogs running at large contrary to the by-law, and for selling dogs so impounded at such time and in such manner as is provided by the by-law. 1965, c. 33, s. 2.

When  
deemed  
running  
at large

(2) For the purpose of this section, a dog shall be deemed to be running at large when found in a highway or other public place and not under the control of any person. R.S.O. 1960, c. 111, s. 6 (2).

Penalty

**8.** A by-law passed under this Part may impose a fine of not more than \$50, exclusive of costs, upon every person who contravenes the by-law, and every such fine is recoverable under *The Summary Convictions Act*. R.S.O. 1960, c. 111, s. 7.

R.S.O. 1970,  
c. 450

Running at  
large of  
dogs in  
unorganized  
territory

**9.**—(1) The Lieutenant Governor in Council may make regulations for prohibiting or regulating the running at large of dogs in territory without municipal organization or in any defined area thereof, for seizing and impounding, and for killing, whether before or after impounding, dogs running at large contrary to the regulations, and for selling dogs so impounded at such time and in such manner as may be provided in the regulations.

What  
constitutes  
running  
at large

(2) For the purpose of this section, a dog shall be deemed to be running at large when found on public lands or in a public place and not under the control of any person.

Offence

(3) Every owner of a dog who allows it to run at large contrary to the regulations made under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. R.S.O. 1960, c. 111, s. 8.

Regulations

**10.** The Lieutenant Governor in Council may make regulations designating as pure-bred any class or classes of dogs. 1968-69, c. 31, s. 3, *part*.

## PART II

### PROTECTION OF LIVE STOCK AND POULTRY

Interpre-  
tation

#### **11.** In this Part,

- (a) "Commissioner" means the Live Stock Commissioner;
- (b) "injured" in respect of live stock or poultry means injured by wounding, worrying or pursuing, and "injuring" has a corresponding meaning;
- (c) "live stock" means cattle, goats, horses, sheep or swine. R.S.O. 1960, c. 111, s. 9; 1965, c. 33, s. 4; 1968, c. 32, s. 1.

**12.** Any person may kill a dog,

When dogs  
may be  
killed

- (a) that is found killing or injuring live stock or poultry;
- (b) that in a township or village is found between sunset and sunrise straying from the premises where the dog is habitually kept;
- (c) that is found straying at any time, and not under proper control, upon premises where live stock or poultry are habitually kept. R.S.O. 1960, c. 111, s. 10; 1965, c. 33, s. 5.

**13.**—(1) Whether the owner of a dog that kills or injures live stock or poultry is known or not, the local municipality in which the killing or injuring occurred is liable to the owner of the live stock or poultry for the amount of damage determined under section 14, and shall pay over such amount to the owner within thirty days after the amount has been so determined. 1968, c. 32, s. 2.

Liability  
of muni-  
cipality

(2) Subsection 1 does not apply,

Where  
subs. 1 does  
not apply

- (a) to live stock or poultry killed or injured while running at large upon a highway or unenclosed land; or
- (b) in the case of poultry, where the weight of the poultry killed or injured is less than fifty pounds; or
- (c) in the case of a township in a territorial district, where the owner of the live stock or poultry killed or injured fails to satisfy the council of the township that the killing or injuring was by dogs and not by wild animals. R.S.O. 1960, c. 111, s. 11 (2); 1965, c. 33, s. 6 (2, 3).

(3) The council of a local municipality may pass a by-law providing that, where live stock or poultry are killed or injured by wild animals in the municipality, subsection 1 applies in the same manner as where live stock or poultry are killed or injured by a dog, but the council in the by-law may fix the maximum amount payable for any head of live stock so killed or injured, or for poultry of one owner killed or injured in any year, and may fix the proportion of the damages ascertained under section 15 that is payable. R.S.O. 1960, c. 111, s. 11 (3); 1965, c. 33, s. 6 (4).

By-law for  
damages by  
wild animals

**14.**—(1) The council of every local municipality shall appoint one or more persons as valuers of live stock and poultry for the purposes of this Act. R.S.O. 1960, c. 111, s. 12 (1); 1965, c. 33, s. 7 (1).

Appoint-  
ment of  
valuers

(2) Where the owner of live stock or poultry discovers that any of his live stock or poultry has been killed or injured and to the best of his knowledge and belief such killing or injuring was done

Investiga-  
tion and  
report by  
valuer

by a dog other than a dog owned by him or habitually kept upon his premises, he shall immediately notify a valuer for the local municipality in which the live stock or poultry were killed or injured or the clerk of such municipality who shall forthwith notify a valuer, and such valuer shall immediately make full investigation and shall make his report in writing within ten days thereafter to the clerk of the municipality giving in detail the extent and amount of the damage and his award therefor, and he shall at the same time forward a copy of such report to the owner of the live stock or poultry. R.S.O. 1960, c. 111, s. 12 (2); 1965, c. 33, s. 7 (2).

Affidavit  
of owner

(3) Where an owner of live stock or poultry notifies a valuer or a clerk of a local municipality under subsection 2, he shall, within ten days, file with the clerk an affidavit that to the best of his knowledge and belief the live stock or poultry were killed or injured by a dog other than a dog owned by him or habitually kept upon his premises. 1968, c. 32, s. 3 (1).

Denial of  
liability

(4) Where the valuer finds evidence that to the best of his knowledge and belief shows,

- (a) that any of the live stock or poultry was not killed or injured by a dog; or
- (b) that the killing or injuring was caused by a dog owned by or habitually kept on the premises of the owner of the live stock or poultry; or
- (c) that the owner had not taken reasonable care to prevent the killing or injuring of his live stock or poultry by dogs.

the valuer shall include in his report to the clerk of the local municipality and to the owner of the live stock or poultry a statement of his belief and shall make forthwith a further report to the clerk of the municipality giving particulars of the evidence found, and the council of the municipality may thereupon deny liability in whole or in part by written notice given by the clerk of the municipality to the owner of the live stock or poultry within thirty days after the filing of his affidavit with the clerk. 1965, c. 33, s. 7 (3).

Damages  
limited

(5) The amount of damage for which the local municipality is liable shall not include damage incurred under the circumstances set out in clause *a*, *b* or *c* of subsection 4 and for which the municipality has denied liability in accordance with subsection 4. R.S.O. 1960, c. 111, s. 12 (4).

Where  
carcass  
not to be  
destroyed

(6) The owner of live stock or poultry shall not destroy or permit to be destroyed the carcass of any live stock or poultry reported killed under subsection 2 until the carcass has been seen by the valuer. R.S.O. 1960, c. 111, s. 12 (5); 1965, c. 33, s. 7 (4).

(7) Where the owner of live stock or poultry or the council is dissatisfied with the report of the valuer made under subsection 2, the owner or the council may appeal to the Commissioner who shall name a valuer, and the valuer so named shall make a further investigation and report.

Appeal to  
Commis-  
sioner

(8) Such appeal shall be made within thirty days after the making of the report to the clerk of the local municipality by its valuer, and \$25 shall be deposited with the Commissioner at the time of making the appeal to be forfeited to the Crown if the report of the valuer for the local municipality is sustained on an appeal under this section.

Time for  
appeal;  
deposit

(9) Where there is no valuer of the local municipality or the clerk or the valuer does not discharge the duties imposed upon him by this Act, the Commissioner, on the application of the owner of any live stock or poultry killed or injured by a dog other than a dog owned by him or habitually kept upon his premises, shall name a valuer, and the valuer so named shall make an investigation and report, and the municipality shall pay to the Commissioner the cost of such investigation and report as fixed by him.

Where no  
municipal  
valuer

(10) A copy of the report of a valuer named by the Commissioner under subsection 7 or 9 shall be forwarded by the Commissioner as soon as practicable to the clerk of the local municipality and to the owner of the live stock or poultry.

Report of  
valuer  
appointed  
by Com-  
missioner

(11) A valuer named by the Commissioner under subsection 7 or 9 shall, where applicable, include in his report a statement of his belief that the amount of damage to live stock or poultry includes damage incurred under the circumstances set out in clause *a, b* or *c* of subsection 4, and the council of the municipality may thereupon deny liability in whole or in part by written notice given by the clerk of the municipality to the owner of the live stock or poultry within thirty days after receipt of the report of the valuer.

Idem

(12) Where the owner of live stock or poultry or the council is dissatisfied with the report of the valuer made under subsection 7 or 9, the owner or the council may, within thirty days after receipt of the report, appeal to a judge of the county or district court of the county or district in which the municipality is situate, and the judge may determine the liability of the municipality and, subject to subsection 13, the amount payable to the owner.

Appeal  
from  
report of  
valuer

(13) No municipality shall be liable to an owner for an amount in respect of,

Amount of  
damage  
limited

- (a) a head of cattle in excess of \$500;
- (b) a goat in excess of \$100;
- (c) a horse in excess of \$500;



- (d) a head of sheep in excess of \$100;
- (e) a head of swine in excess of \$100; or
- (f) poultry of one owner, killed or injured in any year, in excess of \$1,000. 1968, c. 32, s. 3 (2-6).

Right of  
recovery  
from  
owner  
of dog

**15.** A local municipality having paid to the owner of live stock or poultry the amount of the damage ascertained under section 14 is entitled to recover the amount so paid from the owner of the dog that did the damage in any court of competent jurisdiction without proving that it was vicious or accustomed to worry live stock or poultry. R.S.O. 1960, c. 111, s. 13; 1965, c. 33, s. 8.

Proceedings  
for  
ascertaining  
owner  
of dog

**16.** In order to ascertain the owner of the dog that killed or injured the live stock or poultry, the clerk on the instructions of the head of the municipality may issue a subpoena calling upon the persons named therein to attend before the council, and the member of the council presiding may administer an oath to any such person and any member of the council may examine any such person upon his knowledge of the matter. R.S.O. 1960, c. 111, s. 14; 1965, c. 33, s. 9.

Apportion-  
ment of  
damage

**17.** Where it appears that the damage was caused by more dogs than one, the council may apportion the damage in such manner as is considered just having regard to the strength, ferocity and character of such dogs. R.S.O. 1960, c. 111, s. 15.

Duty to  
destroy  
dog

**18.—(1)** Where the owner of a dog has knowledge that the dog has killed or injured live stock or poultry, he shall destroy the dog or cause the dog to be destroyed within forty-eight hours after acquiring such knowledge. R.S.O. 1960, c. 111, s. 16 (1); 1965, c. 33, s. 10.

Failure to  
destroy dog

**(2)** Where the owner of a dog refuses or neglects to destroy it when required so to do by subsection 1, he may be summoned before a provincial judge who may order the dog to be destroyed, and for the purpose of carrying out the order a constable may enter upon the premises of the owner and destroy the dog, and the provincial judge may, in addition to any other penalty provided by this Act, direct the owner of the dog to pay the cost of the proceedings and of the destruction of the dog. R.S.O. 1960, c. 111, s. 16 (2), *amended*.

Liability  
of owner  
in un-  
organized  
territory

**19.** Where in territory without municipal organization live stock or poultry are killed or injured by a dog, the owner of the dog is liable to the owner of the live stock or poultry for the amount of the damage, and it is not necessary in an action to recover the amount of such damage to prove that the dog was

vicious or accustomed to worry live stock or poultry. R.S.O. 1960, c. 111, s. 17; 1965, c. 33, s. 11.

**20.** The times and procedures set out in this Part shall be regarded as directory, and a proceeding that is in substantial conformity with this Part is not open to objection on the ground that it is not in strict compliance therewith. R.S.O. 1960, c. 111, s. 18.

**21.** Every person who contravenes any of the provisions of this Part is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. R.S.O. 1960, c. 111, s. 19.

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## CHAPTER 134

## The Dominion Courts Act

**1.** The Supreme Court of Canada and the Exchequer Court of Canada, or the Supreme Court of Canada alone, according to the *Supreme Court Act* (Canada) and the *Exchequer Court Act* (Canada) have jurisdiction, Jurisdiction  
R.S.C. 1952,  
cc. 98, 259

- (a) in controversies between Canada and Ontario;
- (b) in controversies between any other province of Canada in which an Act similar to this Act is in force and Ontario;
- (c) in actions or proceedings in which the parties by their pleadings have raised the question of the validity of an Act of the Parliament of Canada or of an Act of the Legislature of Ontario, when in the opinion of a judge of the court in which the same are pending the question is material, and in such case the judge shall, at the request of the parties, and may without such request if he thinks fit, order the case to be removed to the Supreme Court of Canada in order that the question may be decided. R.S.O. 1960, c. 112, s. 1.

**2.** Where sittings of a court created by the Parliament of Canada, or of a judge thereof, are appointed to be held in a place in which a court house is situate, such court or judge has in all respects the same authority as a judge of the Supreme Court of Ontario in regard to the use of the court house and other buildings or apartments set apart in that place for the administration of justice. R.S.O. 1960, c. 112, s. 2. Use of court  
house, etc.,  
by Federal  
court judges

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CHAPTER 135

The Dower Act

**1.** A widow, on the death of her husband, may tarry in his chief house for forty days after his death, within which time her dower shall be assigned her, if it has not been assigned her before, and in the meantime she shall have her reasonable maintenance, and for her dower shall be assigned to her the third part of all the lands of her husband whereof he was seized at any time during coverture, except such thereof as he was so seized of in trust for another. R.S.O. 1960, c. 113, s. 1.

Dower and  
quarantine

**2.** A widow wrongfully deforced of dower or quarantine may recover damages for such forcement against the deforcer. R.S.O. 1960, c. 113, s. 2.

Damages for  
deforcement

**3.** Where a husband dies beneficially entitled to any land for an interest that does not entitle his widow to dower at common law, and such interest, whether wholly equitable or partly legal and partly equitable, is or is equal to an estate of inheritance in possession, other than an estate in joint tenancy, his widow is entitled to dower out of such land. R.S.O. 1960, c. 113, s. 3.

Dower out  
of equitable  
estates

**4.** Where a husband has been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the land if he had recovered possession of it, she is entitled to dower out of it, although her husband did not recover possession of it, but such dower shall be sued for or obtained within the period during which such right of entry or action might be enforced. R.S.O. 1960, c. 113, s. 4.

Dower where  
husband had  
a right  
of entry

**5.** Dower is not recoverable out of any separate and distinct lot, tract or parcel of land that, at the time of the alienation by the husband or at the time of his death, if he died seized thereof, was in a state of nature and unimproved by clearing, fencing or otherwise for the purposes of cultivation or occupation; but this does not restrict or diminish the right to have woodland assigned to the doweress under section 29, from which it is lawful for her to take firewood necessary for her own use, and timber for fencing the other portion of the same lot, tract or parcel assigned to her. R.S.O. 1960, c. 113, s. 5.

Land in  
state of  
nature

**6.** No dower is recoverable out of any land that has been heretofore or is hereafter granted by the Crown as mining land in

Mining land

case such land is, on or after the 31st day of December, 1897, granted or conveyed to the husband of the person claiming dower and he does not die entitled thereto. R.S.O. 1960, c. 113, s. 6.

Land dedi-  
cated for  
streets

**7.** Land dedicated by its owner for a street or public highway is not subject to any claim for dower by the wife of the person by whom it was dedicated. R.S.O. 1960, c. 113, s. 7.

Dower for-  
feited by  
elopement  
with  
adulterer

**8.** Where a wife willingly leaves her husband and goes away and continues with her adulterer, she is barred forever of her action to demand her dower that she ought to have of her husband's land, unless her husband willingly and without coercion is reconciled to her and suffers her to dwell with him, in which case she is restored to her action. R.S.O. 1960, c. 113, s. 8.

Effect of bar  
of dower in  
mortgages

**9.—(1)** No bar of dower contained in a mortgage or other instrument intended to have the effect of a mortgage or other security upon land operates to bar such dower to any greater extent than is necessary to give full effect to the rights of the mortgagee or grantee under such instrument.

Wife's right  
to dower  
in surplus of  
purchase  
money aris-  
ing from  
sale under  
mortgage

**(2)** Where land comprised in such mortgage or other instrument is sold under a power of sale contained therein or under any legal process, the wife of the mortgagor or grantor who has so barred her dower in such land is entitled to dower in any surplus of the purchase money arising from such sale that remains after satisfaction of the claim of the mortgagee or grantee, to the same extent as she would have been entitled to dower in the land from which such surplus purchase money was derived had it not been sold and, except where the mortgage or other instrument is for the purchase money of the land, the amount to which she is entitled shall be calculated on the basis of the amount realized from the sale of the land and not upon the amount realized from the sale over and above the amount of the mortgage only. R.S.O. 1960, c. 113, s. 9.

Payment of  
money into  
Court

**10.—(1)** A mortgagee or other person holding any money out of which a married woman is dowable under section 9 may pay it into the Supreme Court to the credit of such married woman and the other persons interested therein.

Order for  
securing  
right of  
dower

**(2)** The court may, on a summary application, make such order as is considered just for securing the right of dower of a married woman in any money out of which she is dowable. R.S.O. 1960, c. 113, s. 10.

Widow's  
election

**11.** A widow is not entitled to take her interest in money under section 9, and, in addition thereto, a share of the money as personal estate. R.S.O. 1960, c. 113, s. 11.

**12.**—(1) A person whose wife is of unsound mind and is a patient in a psychiatric facility under *The Mental Health Act* at the time he becomes the owner of any land may at any time while his wife is so confined sell and convey or mortgage such land, freed and discharged of any claim of his wife for dower therein.

Sale, etc.,  
free from  
dower  
R.S.O. 1970,  
c. 269

(2) A person whose wife has not lived in Ontario since their marriage may sell and convey or mortgage any land freed and discharged of any claim of his wife for dower therein. R.S.O. 1960, c. 113, s. 12, *amended*.

Idem

**13.**—(1) An owner of land, who is married and wishes to sell or mortgage the land free from dower, may in any case where,

Application  
to dispense  
with consent

- (a) he and his wife are living apart; or
- (b) the whereabouts of his wife is unknown; or
- (c) his wife is of unsound mind and is confined as such in a hospital for mentally ill, mentally defective or epileptic persons,

apply to a judge of the Supreme Court or to a judge of the county or district court of the county or district in which the owner resides or the land is situate for an order dispensing with the concurrence of his wife for the purpose of barring her dower.

(2) The judge may, by order made in a summary way, upon such evidence as to him seems proper and upon notice to be served personally, dispense with the concurrence of the wife for the purpose of barring her dower.

Order

(3) Where the judge is satisfied that for any reason notice cannot be served personally, the order may be made after notice has been served upon the Public Trustee and in such other manner as the judge may direct.

Idem

(4) The judge may make the order without imposing any conditions or he may, unless the wife has been living apart from the husband under such circumstances as disentitle her to dower, ascertain and state in the order the value of the dower and by the order direct that the amount thereof shall be paid into court or shall remain a charge upon the land or be secured otherwise for the benefit of the wife or be paid or applied for her benefit as he considers best.

Idem

(5) After the making of the order, a conveyance or mortgage by the owner, expressed to be free from his wife's dower, is, subject to the terms and conditions mentioned in the order, sufficient to bar her right thereto.

Conveyance  
or mortgage  
after order

(6) This section extends to a case in which an agreement for sale has been made, or a conveyance executed by the husband, and part of the purchase money retained by the purchaser on account of dower or an indemnity given against such dower, and in any such case the application may be made by any person

When agree-  
ment for sale  
executed by  
husband or  
part of pur-  
chase money  
retained



interested in the land, the purchase money retained or the indemnity. R.S.O. 1960, c. 113, s. 13 (1-6).

Where wife  
is an infant  
or of un-  
sound mind  
R.S.O. 1970,  
c. 269

(7) Where the wife is an infant or a person of unsound mind, notice of the application shall be served on the Official Guardian, except where such person is a patient in a psychiatric facility under *The Mental Health Act*, in which case the notice shall be served only on the Public Trustee. R.S.O. 1960, c. 113, s. 13 (7), *amended*.

Fee

(8) On every such application, a fee of \$5 is payable and no other fee or charge of any kind is payable in respect thereof, except that for filing the affidavits and papers the proper officer shall charge the same fees as for filing papers in other cases. R.S.O. 1960, c. 113, s. 13 (8).

Application  
where wife is  
mentally ill  
but not  
confined in  
a hospital

**14.**—(1) Where the doctor of a correctional institution in a county or district in which a married woman who is not confined in a hospital for the mentally ill resides and another medical practitioner to be named by the judge each certifies in Form 1 that he has personally examined such married woman and that he is of opinion that she is mentally ill and a judge of the county or district court of the county or district in which such married woman resides or a judge of the Supreme Court also certifies in Form 2 that he has personally examined such married woman and that from such examination and from the evidence adduced before him, if he thinks it expedient to hear evidence, he is of opinion that such married woman is mentally ill, the judge may make the like order as is authorized by section 13.

Interval  
between  
examination  
and appli-  
cation

(2) The examination and certificates required by this section shall not be acted upon by the judge unless all are made within a period of one month, and the application shall not be entertained unless it is made within one month after the day upon which the last of such examinations took place. R.S.O. 1960, c. 113, s. 14.

Subsequent  
orders

**15.** Where a judge makes an order under section 13 or 14 with reference to a parcel of land, he may afterwards make orders in respect of other sales or mortgages by the husband on the evidence adduced on the first application and on such further evidence as satisfies him that the circumstances under which he made the original order still exist. R.S.O. 1960, c. 113, s. 15.

Bar of dower  
on sale in  
bankruptcy

**16.** Where the owner of land has become bankrupt and it is sought to sell such land in order to wind up his estate and the wife of such owner will not release her dower, the trustee or assignee in bankruptcy may apply to a judge of the Supreme Court or to a judge of the county or district court of the county or district in which the land is situate for an order enabling him to convey the land free from the dower of the wife, and the order may be made

subject to the like conditions and upon the like proceedings as are provided for in section 13. R.S.O. 1960, c. 113, s. 16.

**17.**—(1) Where an owner of land, being at the time married, sells and conveys or has sold and conveyed, or mortgages or has mortgaged, the land, his wife not having joined in the conveyance or mortgage and the purchaser or mortgagee not having had notice that the grantor or mortgagor had a wife living at the time, the purchaser or mortgagee may, if any of the circumstances set out in clauses *a* to *c* of subsection 1 of section 13 existed at the time of the conveyance or mortgage, apply during the lifetime of the grantor or mortgagor to a judge of the Supreme Court or to a judge of the county or district court of the county or district in which he resides or the land is situate, for an order enabling him to convey or mortgage the land free from the dower of the wife, and the order may be obtained subject to the like conditions and by the like proceedings as are provided by section 13.

Application  
by purchaser  
or mortgagee

(2) A person claiming under the grantee or mortgagee is entitled to apply in like manner and obtain like relief founded on the right that such grantee or mortgagee had, or, on the applicant's own interest having been acquired by purchase for value in good faith without notice, that such owner had a wife at the time of the conveyance or mortgage. R.S.O. 1960, c. 113, s. 17.

Relief of persons  
claiming under  
grantee or  
mortgagee

**18.**—(1) An order under any of the preceding sections may be made in duplicate or in as many parts as are necessary, and shall be signed by the judge, and may be registered in the registry office of the registry division wherein the land to which the order relates is situate, upon its production and deposit, and such registration may take place either before or after the execution of the conveyance or mortgage made in pursuance of the order. R.S.O. 1960, c. 113, s. 18 (1); 1964, c. 26, s. 1 (1).

Registration  
of order

(2) The order may be endorsed or written upon the conveyance or mortgage, in which case it shall be registered as part thereof. R.S.O. 1960, c. 113, s. 18 (2).

Order may  
be endorsed  
on deed

(3) If the order is endorsed or written upon the conveyance or mortgage, the land may be described in the order by reference to the description contained in the conveyance or mortgage. R.S.O. 1960, c. 113, s. 18 (4).

Description  
of land in  
order

**19.** Where a wife has joined or hereafter joins in a conveyance or mortgage purporting to convey or mortgage land, or has signed or signs, otherwise than as a witness, a conveyance or mortgage by which her husband conveys or mortgages or purports to convey or mortgage land, but the conveyance or mortgage contains no words purporting to release her dower or other estate or interest in the land, the conveyance or mortgage has the same effect as if it contained a bar of dower by the wife and she thereby barred her dower in the land. R.S.O. 1960, c. 113, s. 19.

Wife joining  
in deed with-  
out releasing  
dower

Married  
women  
under 21  
barring  
dower

R.S.O. 1970,  
c. 234

**20.** A married woman under twenty-one years of age and of sound mind may bar her dower in any land by joining with her husband in a deed or conveyance thereof to a purchaser for value or to a mortgagee, or in a transfer or charge under *The Land Titles Act*, in which deed, conveyance, transfer or charge a release or bar of her dower is contained, and she may in like manner release her dower to any person to whom such land has been previously conveyed. R.S.O. 1960, c. 113, s. 20.

Assignment  
of dower  
by deed

**21.** The doweress and the tenant of the freehold may by an instrument under their hands and seals and executed in the presence of two witnesses agree upon the assignment of dower, or upon a yearly or gross sum of money to be paid in lieu and satisfaction of dower, and the instrument may be registered in the proper registry office by filing it or a duplicate thereof, verified by the affidavit of one of the subscribing witnesses, and entitles the doweress to hold the land so assigned to her against the assignor and all parties claiming through or under him, as tenant for her life, or to distrain for, or to sue for, and recover in a court of competent jurisdiction the yearly or gross sum agreed to be paid to her by the tenant of the freehold, and the instrument so registered is a lien upon the land for such yearly or gross sum, and is a bar to any action or proceeding by the doweress for dower in the lands mentioned therein. R.S.O. 1960, c. 113, s. 21.

Duty to  
notify  
landlord

**22.** Every tenant in possession who is not also tenant of the freehold and who is served with a writ of summons in an action for the recovery of dower shall forthwith give notice thereof to his landlord or other person under whom he entered into possession, under the penalty of forfeiting the value of three years improved rent of the premises in the possession of the tenant, to the person under whom he entered into possession, to be recovered by action in the Supreme Court. R.S.O. 1960, c. 113, s. 22.

Mode of  
estimating  
damages for  
detention of  
dower, etc.

**23.** In estimating damages for the detention of dower or the yearly value of the land for the purpose of fixing a yearly sum of money in lieu of an assignment of dower by metes and bounds, the value of permanent improvements made after the alienation of the land by the husband or after the death of the husband shall not be taken into account, but the damages or yearly value shall be estimated upon the state of the property at the time of such alienation or death, allowing for the general rise, if any, in the price and value of land in the particular locality. R.S.O. 1960, c. 113, s. 23.

Appointment  
of commis-  
sioners to  
admeasure  
the dower,  
etc.

**24.** The sheriff, on receipt of a writ of assignment of dower, shall, by writing under his seal of office, appoint two resident freeholders of his county who are rated upon the assessment roll for real estate of a value not less than \$2,000 each, and each of

whom would in other respects be eligible to serve as a juror between the parties named in the writ, and an Ontario land surveyor, to be commissioners to admeasure the dower, and the sheriff shall, in such writing, set out a copy of the writ, and shall name therein a day on or before which the commissioners shall make and return to him a report of their proceedings and determination in the execution of the duty assigned to them. R.S.O. 1960, c. 113, s. 24.

**25.** In the case of the death or refusal to act of any or all of the commissioners so appointed, the sheriff shall, from time to time, in like manner, appoint another or others to perform the duty of any who die or refuse to act. R.S.O. 1960, c. 113, s. 25.

Death, etc.,  
of com-  
missioners

**26.**—(1) Every commissioner so appointed shall, before entering upon the execution of his duty, take and subscribe an oath in the following form:

Oath of com-  
missioners

I, ....., do swear that I am not of kin to the plaintiff (*naming her*) or to the defendant (*naming him*), or in any way interested in the land out of which the assignment of dower is to be made by me, and that I will honestly, impartially, and to the best of my skill and ability, execute and perform the duties imposed upon me by the appointment of ....., Sheriff of the County of ....., as a Commissioner for the admeasurement of dower between the plaintiff and the defendant according to law. So help me God.

(2) The commissioners shall annex to their report the oaths sworn by them, and return them to the sheriff. R.S.O. 1960, c. 113, s. 26.

Return to  
sheriff

**27.** After taking and subscribing such affidavit, the commissioners shall, for all purposes in the fulfilment of the duties by law required of them, be considered officers of the court, and are entitled to the same immunities and protection and are subject to the same liabilities and proceedings as a sheriff in the discharge of his duty. R.S.O. 1960, c. 113, s. 27.

Powers and  
liabilities of  
commis-  
sioners

**28.**—(1) If either party desires to produce a witness before the commissioners, such party may sue out a subpoena *ad testificandum* or *duces tecum* from the office in which the action was commenced, commanding the attendance of such witness at the time and place appointed by the commissioners.

Attendance  
of witnesses

(2) The person so required to attend is entitled to be paid the same fees, allowances and conduct money as if he had been subpoenaed as a witness in an ordinary action. R.S.O. 1960, c. 113, s. 28.

Payment of  
witness

**29.**—(1) It is the duty of the commissioners,  
(a) to admeasure, designate and lay off without delay, by sufficient marks, descriptions, boundaries or monu-

Duties of  
commis-  
sioners



ments, one-third of the land mentioned in the writ, according to the nature of the land, whether meadow, arable, pasture or woodland, being a part of the land mentioned in the writ, and having always due regard to the nature and character of the buildings and erections on the land;

- (b) to ascertain and determine what permanent improvements have been made upon the land since the death of the plaintiff's husband, or since he alienated it to a purchaser for value, and, if it can be done, they shall award the dower out of such part of the land as does not embrace or contain such permanent improvements, but, if that cannot be done, they shall deduct either in quantity or value from the portion to be by them allotted or assigned to the plaintiff in proportion to the benefit she may or will derive from the assignment to her as part of her dower of any part of such permanent improvements.

Assessment  
of yearly  
sum in lieu  
of dower

(2) If from peculiar circumstances, such as there being a mill or manufactory upon the land, the commissioners cannot make a fair and just assignment of dower by metes and bounds, they shall assess a yearly sum of money, being as near as may be one-third of the clear yearly rents of the premises, after deducting any rates or assessments payable thereon, and in assessing such yearly sum they shall make allowances and deductions for permanent improvements, as above provided for, and in their report to the sheriff they shall state the amount of such yearly sum and set forth all the evidence taken by them in relation to the same.

Evidence  
on oath

(3) The evidence shall be taken upon oath, which oath any one of the commissioners is hereby authorized to administer, and shall be reduced to writing and signed by the witness.

Recovery  
of sum  
assessed

(4) Such yearly sum is a lien upon the land mentioned in the writ or upon such specific portion thereof as the commissioners may direct, and it is recoverable by distress as for rent or by action against the tenant of the freehold for the time being.

Report of  
commis-  
sioners

(5) The report of the commissioners shall be in writing, signed by them and directed to the sheriff, and shall contain a full statement of their proceedings, and, where the dower is assigned by metes and bounds, shall distinctly point out and describe the metes and bounds and the posts, stones or other monuments designating the boundaries, and, for the purpose of planting and marking the posts, stones or monuments, the commissioners may, if necessary, employ chainbearers and labourers. R.S.O. 1960, c. 113, s. 29.

Return of  
writ and  
report

**30.** The sheriff may, in his discretion, upon the request of the commissioners, enlarge the time for making their report for not

more than ten days, and he shall, within twenty-four hours after the receipt thereof, endorse thereon the day and hour of the receipt, and he shall then forthwith return the writ, together with the report and all papers annexed thereto, to the office wherein the action was commenced. R.S.O. 1960, c. 113, s. 30.

**31.**—(1) Either party, within a month from the filing of the sheriff's return to the writ or within such further time as a judge of the Supreme Court allows, may appeal from the report of the commissioners to a judge in court, upon grounds apparent on the report and papers filed therewith, or may apply to set aside the same, upon other grounds verified by affidavit and set forth in the notice served. Appeal

(2) The court may vary or amend the report, or refer it back to the commissioners for amendment in whole or in part, with such directions as to law or fact as are considered proper, or the court may confirm or set aside the report and may appoint three new commissioners or direct that the sheriff shall do so, and the new commissioners have the same powers and shall perform the same duties as hereinbefore set out, and the report of the new commissioners shall be treated as if no other report had been made, and shall be dealt with and proceeded upon accordingly. Order thereon

(3) If the report is moved against upon the ground of misconduct or fraud on the part of the commissioners, the court may direct that they be added as parties to the proceeding, and, if wilful misconduct or fraud is established, the report may be set aside and the commissioners may be adjudged to pay to the parties injured all the costs that have been incurred in respect of proceedings rendered useless by such misconduct or fraud and all the costs of the proceeding to set aside the report. Effect of report being appealed from for misconduct, etc.

(4) The appeal or application may be dismissed with or without costs, and the court may order the party at whose instance or on whose complaint the commissioners have been made parties to pay the commissioners their costs. Costs of appeal

(5) If the appeal or application is dismissed or if the report is not appealed from or moved against within the proper time, the report is thenceforth final and conclusive on all parties to the action of dower, and a copy of the report, certified by the registrar under the seal of the court, may be registered in the proper registry office. R.S.O. 1960, c. 113, s. 31. Registration of copy of report

**32.** After such registration, the plaintiff is entitled to sue out a writ directed to the proper sheriff, commanding him to put her into possession of the land assigned to her for her dower and to levy all such costs as have been awarded to her against the defendant. R.S.O. 1960, c. 113, s. 32. When writ of possession may issue

Commis-  
sioners' fees

**33.** The commissioners are each entitled to receive from the plaintiff the sum of \$5 for each day's attendance, not exceeding two, and the sum of 20 cents for every 100 words for drawing up their report, and may also charge 10 cents for every 100 words of each copy furnished by them to either party. R.S.O. 1960, c. 113, s. 33.

By whom  
costs to  
be paid

**34.** The plaintiff shall pay the costs of suing out and the costs of the commissioners in executing the writ of assignment of dower and making their report, but each party shall pay his own costs of witnesses and of his counsel or solicitor attending before the commissioners. R.S.O. 1960, c. 113, s. 34.

FORM 1

*The Dower Act*

(Section 14 (1) )

CERTIFICATE OF MEDICAL PRACTITIONER

I, the undersigned . . . , a legally qualified medical practitioner, doctor of the correctional institution in the County (or District) of . . .  
. . . . . (or as the case may be) residing and practising at . . .  
. . . . . in the County (or District) of . . . , do  
hereby certify that on the . . . day of . . . , 19 . . . ,  
at . . . in the County (or District) of . . . I,  
separately from any other medical practitioner, personally examined  
. . . of the Township of . . . in the County of  
(or District) of . . . , wife of . . . of the Township of  
. . . in the County (or District) of . . . and I further  
certify that the said . . . is mentally ill and that I have formed this opinion upon  
the following grounds, namely: (*here state the facts upon which the certificate is  
based*).

Signed this . . . day of . . . ,  
19 . . . , at . . . in the County of . . . ,

Witness . . . . .

R.S.O. 1960, c. 113, Form 1.

FORM 2

*The Dower Act*

*(Section 14 (1) )*

CERTIFICATE OF JUDGE

Province of Ontario.  
County (or District) of .....

I, the undersigned.....  
Judge of the County (or District) Court of the County (or District)  
of....., do hereby certify that on the.....  
day of ....., 19....., I personally examined....., of the  
.....of.....in the County (or District)  
of....., wife of....., of the.....of.....in the County  
(or District) of....., and that from such personal examination  
(and from the evidence of.....and.....adduced before me (*if evidence has been  
taken*) ) I am of opinion that the said.....is mentally ill.

Signed this.....day of....., 19....., at.....  
.....in the County (or District) of.....

.....  
R.S.O. 1960, c. 113, Form 2.

\_\_\_\_\_





## CHAPTER 136

**The Drainage Act****1. In this Act,**

- (a) “benefit” means the benefit to any land from the construction, improvement or maintenance of a drainage works;
- (b) “construction” means the original opening, making, excavating, building or completing of a drainage works;
- (c) “county” includes a provisional judicial district;
- (d) “county court” includes a district court;
- (e) “court of revision” means a court of revision constituted under this Act;
- (f) “Department” means the Department of Municipal Affairs;
- (g) “drainage works” includes a drain constructed by any means, including the improving of a stream, creek or watercourse, and includes works necessary to control the water table or level within or on agricultural lands or to regulate the level of the waters of a drain, reservoir, lake or pond, and includes a dam, embankment, wall, protective works or any combination thereof;
- (h) “engineer” means an engineer registered as a professional engineer under *The Professional Engineers Act*, or a surveyor registered under *The Surveyors Act*;
- (i) “initiating municipality” means the local municipality undertaking the construction, improvement or maintenance of a drainage works to which this Act applies;
- (j) “injuring liability” means the part of the cost of the construction, improvement or maintenance of a drainage works required to relieve the owner of any land or road from liability for injury caused by water artificially made to flow from such land or road upon any other land or road;
- (k) “judge” means a judge of the county or district court of the county or district in which the municipality assessing lands or roads for a drainage works is situate;
- (l) “maintenance” means the preservation and keeping in repair of a drainage works;

Interpre-  
tationR.S.O. 1970,  
cc. 366, 452

- (m) "Minister" means the Minister of Municipal Affairs;
- (n) "outlet liability" means the part of the cost of the construction, improvement or maintenance of a drainage works that is required to provide such outlet or improved outlet;
- (o) "owner" includes a committee of the estate of a mentally incompetent person or of a person incapable of managing his affairs, and a guardian, executor, administrator or trustee in whom land is vested;
- (p) "public utility" means a person having jurisdiction over any waterworks, sewage works, electric heat, light and power works, telegraph and telephone lines, or gasworks, including works for the production, transmission, distribution and supply of crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or any mixture or combination of the foregoing;
- (q) "referee" means the referee appointed under this Act;
- (r) "sufficient outlet" means a point at which water can be discharged safely so that it will do no injury to lands or roads. 1962-63, c. 39, s. 1; 1968, c. 33, s. 1; 1968-69, c. 32, s. 1.

Mutual  
agreement  
re drainage  
works

**2.—**(1) When two or more owners of land desire to construct or improve a drainage works on any of their lands and are willing to pay the cost thereof, they may enter into a written agreement for the construction, improvement, financing and maintenance of such drainage works, which shall include the following:

R.S.O. 1970,  
c. 136

1. A reference to *The Drainage Act*.
2. Descriptions of the lands of the parties to the agreement sufficient for the purposes of registration in the proper registry or land titles office.
3. The estimated cost of the drainage works.
4. A description of the drainage works, including its location and nature.
5. The proportion of the cost of the construction, improvement and maintenance of the drainage works that is to be borne by each of the owners of the lands.
6. The date the agreement was entered into.
7. An affidavit of a subscribing witness to the execution of the agreement by the parties as required by section 25 of *The Registry Act*.

R.S.O. 1970,  
c. 409

Filing of  
agreement

(2) A copy of the agreement and the plans and schedules, if any, of the proposed drainage works may be filed with the clerk of

the local municipality in which the land or any part thereof is situate, and the agreement or an executed copy thereof may be registered in the proper registry or land titles office.

(3) An agreement made under this section shall, upon registration in the proper registry or land titles office of the agreement or an executed copy thereof, be binding upon the heirs, executors, administrators, successors and assigns of each of the parties to the agreement.

Registered  
agreement  
binding on  
successors

(4) The subsequent provisions of this Act do not apply to any drainage works constructed under this section. 1962-63, c. 39, s. 2.

Exception

**3.**—(1) Subject to subsection 4, upon the petition in Form 1 of the majority in number of the owners, as shown by the last revised assessment roll to be the owners of the lands and roads in the area requiring drainage as described in the petition within any local municipality, to the council thereof, for the drainage of the area by means of a drainage works, the council, not sooner than thirty days after a notice advising of the proposed drainage works has been sent by prepaid mail to the secretary-treasurer of each authority under *The Conservation Authorities Act* that has jurisdiction over any of such lands, may by by-law or resolution appoint an engineer to make an examination of the area, to prepare a report, including plans, specifications, estimates of the drainage works, and an assessment against the lands and roads within the area requiring drainage and of any other lands and roads liable to be assessed for the drainage works, stating as nearly as may be, in his opinion, the proportion of the cost of the drainage works, including fees of the engineer and of the clerk, to be assessed against every parcel of land and road for benefit, outlet liability and injuring liability. 1968, c. 33, s. 2.

Drainage  
works con-  
structed on  
petition

R.S.O. 1970,  
c. 78

(2) Where a drainage works is required for the drainage of a road or a part thereof, the council of the local municipality in which the road or part thereof is situate may proceed under subsection 1 upon a petition,

Initiating  
proceedings  
for the  
drainage of  
a road

(a) where the road or part thereof is under the jurisdiction of the Province of Ontario or of a township or county, signed by the engineer or road superintendent appointed under *The Highway Improvement Act* by the Department of Highways, county, township or commission having control over the road or part thereof; and

R.S.O. 1970,  
c. 201

(b) where the road or part thereof is under the jurisdiction of a city, town or village, signed by the engineer or road superintendent of the municipality.

(3) In no case shall the construction of a drainage works by means of the improvement of a creek, stream or natural water-course include a covered drainage works, unless the part of the

Providing  
capacity for  
covered  
drainage  
works



drainage works in which the covered drainage works is included provides capacity for all the surface water from the lands and roads draining naturally towards and into it and for all the waters from all the lands and roads assessed for the drainage works.

Petition  
when  
pumping,  
embanking  
required

(4) Where a drainage works can only be effectually constructed by embanking, pumping or other mechanical operation, the council of the initiating municipality may proceed with the construction thereof or assume such a drainage works only upon the petition of at least two-thirds of the owners, as shown by the last revised assessment roll to be the owners of the lands and roads in the area requiring drainage as described in the petition.

Petition  
where area  
lies on  
each side of  
boundary  
road

(5) Where it is desired to construct a drainage works for the drainage of an area composed of lands or roads lying on each side of a boundary line between two local municipalities, the council of either local municipality may proceed upon a petition as required by this Act in all respects, including the sending of notices, as if such area were entirely within the limits of the municipality. 1962-63, c. 39, s. 3 (2-5).

Drainage  
works  
constructed  
on requisition

**4.—**(1) Where it is necessary, for the proper drainage of any agricultural land, that a drainage works should be constructed thereon or constructed thereon and through the land of one or more adjacent owners, the owner of the land requiring or to be benefited by such drainage may file with the clerk of the local municipality in which his land is situate a requisition in Form 2 requesting that an engineer be appointed.

Deposit for  
expenses

(2) Upon filing the requisition, the owner shall deposit with the clerk of the local municipality the sum of \$100 to be used toward defraying the expenses incurred consequent thereon, which sum shall be taken into consideration by the engineer in apportioning costs.

Limit of  
cost

(3) No drainage works, the whole cost of which will exceed \$2,500, shall be constructed under this section.

Limit of  
area to be  
assessed

(4) Only land lying within 150 rods from the sides of the drainage works and land lying within 150 rods from the point of commencement of the drainage works may be assessed under this section.

Sufficient  
outlet

(5) Every drainage works constructed under this section shall be continued to a sufficient outlet.

Duty of  
council

(6) The council of the local municipality, upon the filing of the requisition, shall, by by-law or resolution, appoint an engineer to make an examination of the area requiring drainage and to report as to the need for such drainage, the value of such drainage to the land to be served by the drainage works, the damage that will be done to the lands through which the drainage works may be

constructed, the amount that should be paid to each owner of land that would be damaged by the drainage works, the estimated cost, and the amount that, in his opinion, should be assessed against every parcel of land and road for benefit, outlet liability and injuring liability.

(7) The engineer shall, before making his examination and report, cause the clerk of the local municipality to send to each owner of land that will be affected by such drainage works seven days written notice in Form 3, by prepaid mail, addressed to each such owner at his address as shown by the last revised assessment roll, of the date, time and place of his examination.

Notice of examination of area

(8) Notwithstanding sections 27, 40 and 42, unless the requisition for a drainage works under this section is withdrawn, the council of the municipality shall, subject to any appeals, adopt the report and proceed to implement it in accordance with this Act.

Adoption of report

(9) Every ditch constructed under *The Ditches and Watercourses Act* shall be maintained in accordance with the award of an engineer providing for such maintenance until such ditch is brought under the provisions of this Act. 1962-63, c. 39, s. 4.

Present award ditches  
R.S.O. 1960, c. 109

**5.** The engineer shall, to the best of his skill, knowledge, judgment and ability, honestly and faithfully, and without fear of, favour to or prejudice against any person, perform the duty assigned to him in connection with any drainage works and make a true report thereon. 1962-63, c. 39, s. 5.

Duties of engineer

**6.—**(1) The engineer and his assistant when engaged in the performance of their duties during or after the examination of the locality may enter, measure along, ascertain the bearings of any line, plant the stakes that they consider necessary for the performance of the work and take levels on the land of any person.

Power to enter lands

(2) Every person who wilfully interferes with or obstructs the engineer or any of his assistants in the exercise of the powers conferred by subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1962-63, c. 39, s. 6.

Offence for interference with engineer

**7.—**(1) The council of the initiating municipality may instruct the engineer to make one report with respect to two or more petitions requiring drainage in two or more adjoining areas that require drainage.

One report on two or more petitions

(2) The engineer appointed shall make a report, including such plans, profiles, specifications, estimates of the drainage works to be constructed and assessments as may be considered necessary.

Duty to make plans, specifications and estimates

Duties  
re survey

(3) The engineer in making his survey shall establish sufficient bench marks or permanent levels by which a drainage works may be governed, and shall in his report record the description, location and elevation of every bench mark or permanent level.

Offence for  
interference  
with bench  
marks, etc.

(4) Every person who interferes with, removes or destroys any bench mark or permanent level established under subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1962-63, c. 39, s. 7.

Report re  
disposal of  
material  
taken from  
drainage  
works

**8.**—(1) The engineer in his report shall determine in what manner the material taken from any drainage works in the construction, improvement or maintenance thereof shall be disposed of, and the amount to be paid to the respective persons entitled to damages, if any, to lands and crops occasioned thereby, and shall include such sums in his estimates of the cost of the construction, improvement or maintenance of the drainage works.

Bridges and  
culverts on  
roads

(2) The engineer in his report shall provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage works rendered necessary by the drainage works crossing any public road or part thereof, and he shall in his assessment apportion, as appears just, the cost of bridges and culverts between the drainage works and the municipality or municipalities having jurisdiction over such public road.

By-law as  
to assess-  
ments for  
bridges,  
culverts  
on roads

(3) A local municipality may by by-law assume, as a charge upon the general funds of the municipality, the whole or such part, as the by-law may determine, of the cost of construction, improvement and maintenance of all bridges and culverts rendered necessary by a drainage works crossing any public road or part thereof within the municipality, and, when such a by-law has been passed, it shall not be repealed except with the permission of the referee, and, so long as the by-law remains unrepealed, the engineer shall, in his assessment, apportion the cost of such bridges and culverts in accordance with the by-law or direct that such drainage works be done by and at the expense of the municipality.

Construction  
of access  
bridges

(4) The engineer in his report shall provide for the construction or the replacement, enlargement or other improvement of bridges and culverts required to afford access from any land to the travelled portion of a public road, and he shall include the cost of the construction or the replacement, enlargement or other improvement of such bridges and culverts in his assessment for the construction, improvement or maintenance of the drainage works, and they shall, for the purposes of maintenance, be deemed part of the drainage works.

Construction  
of farm  
bridges

(5) The engineer in his report shall provide for the construction or the replacement, enlargement or other improvement of bridges



and water gates rendered necessary by the drainage works upon any land, and the land assessed for the drainage works shall not be nor shall any municipal corporation be liable for keeping such bridges and water gates in repair, but, if the engineer considers it just that any of such bridges or water gates be maintained as part of the drainage works, he may so provide.

(6) If the engineer thinks it expedient to make an allowance for severance to an owner instead of providing for the construction or the replacement, enlargement or other improvement of a bridge as provided by subsection 4 or 5, he shall in his report provide for payment to the owner of such amount as appears just by way of allowance for severance.

Allowance  
for  
severance

(7) Where an existing drain that was not constructed on petition under this Act or any predecessor of this Act is incorporated in whole or in part in a drainage works or is used in connection therewith, the engineer in his report shall estimate and allow in money to the owner of such drain or part the value to the drainage works of such drain or part.

Allowance  
for private  
drains

(8) The engineer in his report shall estimate and allow in money to the owner of any land that it is necessary to use,

Allowance  
for right  
of way, etc.

- (a) for the construction or improvement of a drainage works;
- (b) for the disposal of material removed from a drainage works;
- (c) as a site for a pumping station to be used in connection with a drainage works; or
- (d) as a means of access to any such pumping station, if, in the opinion of the engineer, such right of way is sufficient for the purposes of the drainage works,

the value of any such land or the damages, if any, thereto.

(9) Where, in the opinion of the engineer, the cost of continuing a drainage works to a sufficient outlet or the cost of constructing or improving a drainage works with sufficient capacity to carry off the water will exceed the amount of injury likely to be caused to low-lying lands along the course of or below the termination of the drainage works, instead of continuing the works to such an outlet, or making it of such capacity, he may include in his estimate of cost a sufficient sum to compensate the owners of such low-lying lands for any injuries they may sustain from the drainage works, and in his report he shall determine the amount to be paid to the owners of such low-lying lands in respect of such injuries.

Allowance  
for damage  
due to in-  
sufficient  
outlet

(10) If the engineer finds that a drainage works is not required or is impractical, or cannot be constructed under this Act, he shall forthwith file with the clerk of the initiating municipality a report

Engineer's  
finding,  
drainage  
works not  
required,  
etc.



to that effect, stating his reasons therefor, the amount of his fees and other charges and by whom they shall be paid, and the clerk shall forthwith send a notice of the filing of such report, by prepaid mail, to all persons who signed the petition or requisition, as the case may be, and the matter shall not be further proceeded with unless the decision of the engineer is reversed on appeal. 1962-63, c. 39, s. 8.

Assessing  
land in  
neighbour-  
ing municipi-  
ality

**9.** Where any lands or roads in or under the jurisdiction of a local municipality, other than the local municipalities into or through which the drainage works passes, are, in the opinion of the engineer of the initiating or other municipality doing the work or part thereof, benefited by the drainage works or provided with an improved outlet or relieved from injuring liability, he may assess the cost of the construction, improvement or maintenance of the drainage works in the same manner as is provided in section 10. 1962-63, c. 39, s. 9; 1968, c. 33, s. 3.

Continuing  
drainage  
works  
beyond the  
limits of  
municipality

**10.—(1)** Where it is considered necessary to continue a drainage works beyond the limits of the initiating municipality, the engineer employed by the council of such municipality may continue the drainage works on or along or across any road allowance or other boundary between any two or more municipalities, and from any such road allowance or other boundary into or through any municipality until he reaches a sufficient outlet, and in every such case he may assess, regardless of municipal boundaries, all lands and roads that, in his opinion, should be assessed for benefit, outlet liability or injuring liability, with such proportion of the cost of the drainage works as appears just, and in his report thereon he shall estimate separately the cost of the drainage works within each municipality and upon the road allowances or other boundaries.

When  
drainage  
works  
not deemed  
out of  
initiating  
municipality

**(2)** A drainage works shall not be deemed to be continued into a municipality other than the initiating municipality merely by reason of such drainage works or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. 1962-63, c. 39, s. 10.

Interpro-  
vincial  
drainage  
works, from  
Ontario into  
adjoining  
province

**11.—(1)** Where it is considered necessary or expedient to extend a drainage works constructed under this Act from Ontario into or through lands in an adjoining province, or to extend a drainage works from an adjoining province into or through lands in Ontario, the Lieutenant Governor in Council may authorize the Minister to enter into an agreement with a designated officer of the adjoining province as to the proportion of the cost of the drainage works in the adjoining province to be borne and paid by Ontario and as to the proportion of the cost of the drainage works in Ontario to be borne and paid by the adjoining province.

(2) Where such a drainage works extends from Ontario into or through lands in an adjoining province, the Minister may order a local municipality in Ontario in which the lands affected by the drainage works are situate to provide funds to pay for the proportion of the cost of the drainage works in the adjoining province to be borne and paid by Ontario, and thereupon this Act applies *mutatis mutandis* to such drainage works.

Apportionment of cost

(3) Where a drainage works extends from an adjoining province into or through lands in Ontario, the Minister may order a local municipality into which the drainage works extends to provide for the construction of the necessary drainage works, and thereupon this Act applies *mutatis mutandis* to such drainage works, and the contribution to the drainage works from the other province shall be paid to such local municipality on the completion of the drainage works. 1962-63, c. 39, s. 11.

Extension of drainage works from adjoining province

**12.**—(1) The council of a local municipality by by-law may appoint one or more commissioners,

Commissioner, appointment and duties

(a) to assist the engineer in the construction or improvement of a drainage works; and

(b) to supervise the maintenance of any drainage works,

and require him or them to report annually on the state of repair of all drainage works under his supervision.

(2) The commissioner has the same powers as to entry on land as are given to an engineer under section 6. 1962-63, c. 39, s. 12.

Powers of commissioner

**13.** The engineer, in assessing the lands and roads requiring drainage or otherwise liable for assessment under this Act, shall show in his report the approximate number of acres affected by the drainage works in each parcel of land assessed for the drainage works. 1962-63, c. 39, s. 13.

Assessment of affected land

**14.** The assessment upon any land or road for a drainage works may be shown by the engineer placing sums of money opposite the land or road, and it is not necessary to insert the fractional part of the whole cost to be borne by the land or road. 1962-63, c. 39, s. 14.

Assessment may be shown in money

**15.**—(1) The engineer in his report shall assess for benefit, outlet liability and injuring liability, and shall insert in an assessment schedule, in separate columns, the sums assessed for each opposite each parcel of land and road liable therefor.

Engineer to distinguish assessments

(2) In fixing the sum to be assessed upon any land or road, the engineer may take into consideration any prior assessment on the same land or road for the construction, improvement or maintenance of a drainage works and make such allowance therefor as appears just, and in his report he shall state the allowance so made. 1962-63, c. 39, s. 15.

Prior assessments to be taken into consideration

Outlet  
liability,  
lands  
assessed for

**16.**—(1) Lands and roads that use a drainage works as an outlet, or for which, when the drainage works is constructed or improved, an improved outlet is provided either directly or indirectly through the medium of any other drainage works or of a swale, ravine, creek or watercourse, may be assessed for outlet liability.

Injuring  
liability,  
lands  
assessed for

(2) If, from any land or road, water is artificially caused by any means to flow upon and injure any other land or road, the land or road from which the water is caused to flow may be assessed for injuring liability with respect to a drainage works to relieve the injury so caused to such other land or road.

Basis of  
assessment

(3) The assessment for outlet liability and injuring liability provided for in subsections 1 and 2 shall be based upon the volume and rate of flow of the water artificially caused to flow upon the injured land or road or into the drainage works from the lands and roads liable for such assessments.

Certain  
owners not  
to count  
for or  
against  
petition

(4) The owners of the lands and roads made liable to assessment only under subsection 1 or 2 shall neither count for nor against the petition required by subsection 1 of section 3 unless within the area therein described. 1962-63, c. 39, s. 16.

Engineer to  
list  
separately  
excepted  
lands and  
lands in  
different  
municipi-  
palities

**17.** The engineer in his report shall list separately the lands in each municipality that are assessed for a drainage works and shall indicate the assessment of the cost of lateral drains and the assessments of lands that are not agricultural lands. 1962-63, c. 39, s. 17.

Variations  
in assess-  
ments for  
maintenance

**18.** Where the engineer considers it equitable that the cost of the maintenance of a drainage works be assessed upon a basis different from that upon which the cost of its construction or improvement is assessed, he shall determine and report the basis upon which the cost of maintenance of the drainage works or of any part or parts thereof shall be assessed. 1962-63, c. 39, s. 18.

Subsequent  
subdivision  
of land

**19.**—(1) Where a parcel of land has been assessed by an engineer and, after the final revision of the assessment, the parcel is divided by the change in ownership of any part, the clerk of the local municipality in which the parcel is situate shall direct an engineer in writing to apportion the assessment charged against the parcel among the parts into which it is divided.

Notice to  
affected  
owners

(2) The clerk of the local municipality shall forthwith send a copy of the direction by prepaid mail to the owners of the parts into which the parcel is divided.

Apportion-  
ment of  
assessment

(3) The engineer in making the apportionment shall have regard to the part of the parcel affected by the drainage works, and shall make the apportionment in writing and file it with the

clerk of the local municipality who shall attach it to the original assessment and shall send, by prepaid mail, a copy thereof to each of such owners, and, subject to subsection 5, the apportionment is binding upon the lands assessed.

(4) The costs, including the fees of the engineer and of the clerk of the local municipality, shall be borne and paid by the parties in the manner fixed or apportioned by the engineer or, on appeal, by the judge.

Costs of  
engineer  
and clerk

(5) Any such owner who is dissatisfied with such apportionment and who is assessed for a sum greater than \$200 may appeal to the judge within thirty days after the date a copy of the apportionment is sent to him by the clerk. 1962-63, c. 39, s. 19.

Appeal of  
apportion-  
ment

**20.**—(1) Where an owner of land that is not assessed for a drainage works subsequently connects the land with the drainage works for the purpose of drainage or where the nature or extent of the use of a drainage works by land assessed for the drainage works is substantially altered, an engineer appointed by the initiating municipality for the purpose shall make a report and assess the land for a just proportion of the drainage works, regard being had to any compensation paid to the owner of such land in respect of the drainage works, but no person shall connect such land to the drainage works without the approval of the council of the municipality.

Subsequent  
connections  
with  
drainage  
works

(2) The amount collected under subsection 1 shall be paid into a special bank account and used only for the future improvement or maintenance of the whole or any part of the drainage works. 1962-63, c. 39, s. 20.

Use of  
amount  
collected

**21.**—(1) Where a drainage works or a part thereof is to be constructed, improved or maintained upon, along, adjoining, under or across the lands, permanent way, transmission lines, power lines, wires, conduits or other permanent property of a public utility, the public utility may construct, improve or maintain such drainage works or part.

Public  
utility,  
option to  
construct  
drainage  
works

(2) Where the public utility does not exercise its powers under subsection 1 or does not complete such drainage works or part within a reasonable time and without unnecessary delay, such drainage works or part may be completed by the initiating municipality in the same manner as any other drainage works.

Non-  
exercise by  
public  
utility

(3) In addition to all other sums lawfully assessed against the property of the public utility under this Act, and even if the public utility is not otherwise assessable under this Act, the public utility shall be assessed for and shall pay all the increase of cost of such drainage works or part caused by the existence of the works of the public utility. 1962-63, c. 39, s. 21.

Increased  
cost, how  
borne



Time for  
filing report

**22.**—(1) The report of the engineer shall be filed with the clerk of the initiating municipality as soon as completed or in any event within six months after his appointment, or within such further time as may be extended before or after the expiry of such six-month period by the council of the municipality.

Engineer  
may forfeit  
compensa-  
tion and  
council  
appoint  
another

(2) If the engineer neglects to make his report within the time limited by or extended under this section, he shall forfeit all claim for compensation for the work done by him upon the drainage works, and the council of the local municipality may appoint some other engineer.

By-law not  
invalid by  
reason  
report not  
filed in  
six months

(3) A by-law passed by the council of any local municipality for the construction of a drainage works under this Act shall not be quashed by reason only that the report of the engineer was not filed within the time limited by or extended under this section. 1962-63, c. 39, s. 22.

Fees of  
engineer  
part of  
drainage  
works  
Account of  
engineer

**23.**—(1) The fees and expenditures of the engineer form part of the cost of the drainage works.

(2) The account of the engineer shall be set out in such detail as the council of the local municipality that appointed him may require.

Review by  
judge

(3) The council of the local municipality may apply, within sixty days after the engineer's account is presented to the clerk of the municipality, to the judge, who shall review the account and make any alteration he considers just, and the clerk shall give at least thirty days notice by prepaid mail to the engineer and to the head of the municipality of the appointment for such review.

Appeal to  
referee

(4) Where the account of the engineer exceeds \$500, the decision of the judge may be appealed to the referee within thirty days after the date of the decision of the judge. 1962-63, c. 39, s. 23.

Copy of  
report  
to other  
municipi-  
palities  
affected,  
etc.

**24.**—(1) Upon the filing of the engineer's report, the council of the initiating municipality, if it intends to proceed with the drainage works, shall send a copy of the report,

- (a) to the clerk of every other local municipality in which any land or road that is assessed for the drainage works is situate;
- (b) to the secretary-treasurer of each authority under *The Conservation Authorities Act* that has jurisdiction over any land affected by the report;
- (c) to any railway company or public utility affected by the report, other than by way of assessment; and
- (d) to the Minister of Lands and Forests where land under his jurisdiction may be affected by the report.

R.S.O. 1970,  
c. 78

1962-63, c. 39, s. 24 (1); 1968, c. 33, s. 4 (1).

(2) The clerk of the initiating municipality shall send a notice by prepaid mail to the owners, as shown by the last revised assessment rolls to be the owners of lands and roads assessed for the drainage works in the area found by the engineer to require drainage, and to all other owners of lands and roads in the initiating municipality assessed for the drainage works and to each authority under *The Conservation Authorities Act* that has jurisdiction over any of such lands, stating the date of the filing of the report, the name or other designation of the drainage works and its estimated cost, the amount that is assessed against the owner's land, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be considered. 1962-63, c. 39, s. 24 (2); 1968, c. 33, s. 4 (2).

Clerk of initiating municipality to notify parties assessed

(3) The clerk of every other local municipality in which any land or road that is assessed for the drainage works is situate shall send a notice by prepaid mail to the owners, as shown by the last revised assessment roll to be the owners of the lands and roads in such municipality assessed for the drainage works, and to each authority under *The Conservation Authorities Act* that has jurisdiction over any of such lands, stating the date of the filing of the report, the name or other designation of the drainage works and its estimated cost, the amount that is assessed against the owner's land, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be considered. 1962-63, c. 39, s. 24 (3); 1968, c. 33, s. 4 (3).

Clerk to notify parties assessed

R.S.O. 1970, c. 78

(4) The clerk of each local municipality in which any land or road that is assessed for the drainage works is situate shall send a notice by prepaid mail to each owner of land in the municipality in respect of which the report provides for compensation and other allowances, if any, stating the date of the filing of the report, the amount of compensation and allowances awarded to the owner, and the date of the council meeting at which the report will be considered. 1962-63, c. 39, s. 24 (4).

Clerk to notify owners to be compensated

(5) The clerk of the initiating municipality and the clerk of every other local municipality shall send a copy of the report with each notice that is sent under subsections 2, 3 and 4, provided that where a copy of the report is sent under subsection 1 it is not necessary to send a further copy to the same party under this subsection. 1970, c. 130, s. 1.

Copy of report to accompany notice

(6) The date of the council meeting at which the report will be considered shall not be less than ten days after the last notice has been mailed under subsection 2, 3 and 4. 1962-63, c. 39, s. 24 (5).

Council meeting for consideration of report

**25.** The council of the initiating municipality shall, at the meeting mentioned in the notices under section 24, consider the report, and, where the drainage works is requested on petition,

Consideration of report

shall give an opportunity to any person who has signed the petition to withdraw from it by putting his withdrawal in writing, signing it and filing it with the clerk, and shall also give those present owning lands within the area requiring drainage who have not signed the petition an opportunity so to do, and, should any of the lands or roads of the municipality be assessed, the council may by resolution authorize the head or acting head of the municipality to sign the petition for the municipality, and such signature counts as that of one person in favour of the petition. 1962-63, c. 39, s. 25; 1970, c. 130, s. 2.

Sufficiency  
of petition

**26.**—(1) If the petition at the close of such council meeting contains a sufficient number of names to comply with subsection 1 or 4 of section 3, as the case may be, the council may proceed to adopt the report, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw.

Liability of  
persons who  
have with-  
drawn where  
petition  
insufficient

(2) If, after striking out the names of the persons withdrawing, the names remaining on the petition, including the names, if any, added as provided by section 25, do not comply with the requirements of subsection 1 or 4 of section 3, as the case may be, the persons who have withdrawn from the petition are on their respective assessments in the report, with 100 per cent added thereto, together with the other original petitioners on their respective assessments in the report, *pro rata*, chargeable with and liable to the municipality for the expenses incurred by the municipality in connection with the petition and report, and the sum with which each of such owners is chargeable shall be entered upon the collector's roll for the municipality against the lands of the persons liable, and shall be collected in the same manner as real property taxes 1962-63, c. 39, s. 26.

Adoption  
of report

**27.** A report may be adopted by by-law in Form 4 and, when such by-law is given two readings by council, the report shall be deemed to be adopted and the by-law shall be known as a provisional by-law. 1962-63, c. 39, s. 27.

Referring  
report back  
to engineer

**28.** The council of the initiating municipality, at any time before passing the by-law, if it appears that there are or may be errors in the report of the engineer or that for any other reason the report should be reconsidered, may refer the report back to him for reconsideration, and the engineer shall thereupon reconsider his report and shall further report to the council, which report has the same effect and shall be dealt with in the same manner and the proceedings thereon shall be the same as upon the original report. 1962-63, c. 39, s. 28.

Copy of  
by-law to  
be sent to  
local muni-  
cipalities  
and to  
owners

**29.** The council of the initiating municipality shall, within five days after the adoption of the report, cause a copy of the provisional by-law and a notice of the sitting of the court of revision to be sent by prepaid mail to every other local municipal-



ity in which any land or road is assessed for the drainage works, and the council of the initiating municipality and every such other local municipality shall, within thirty days after the adoption of the report, cause a copy of the provisional by-law and a notice of the sitting of the court of revision to be sent by prepaid mail to each owner, as shown by the last revised assessment roll to be the owner of land in the municipality assessed for the drainage works, and to each person entitled to notice under subsection 4 of section 24. 1965, c. 34, s. 1.

**30.**—(1) The court of revision shall consist of three or five members appointed by the council of the municipality and such members other than members of the council may be paid such remuneration and expenses as the council may by by-law provide. 1968-69, c. 32, s. 2, *part*; 1970, c. 130, s. 3.

Court of revision

(2) Every such member shall be a person eligible to be elected a member of the council or shall be a member of the council. 1968-69, c. 32, s. 2, *part*.

Qualification

**31.**—(1) Any owner of land, or, where roads in the local municipality are assessed, any ratepayer, who complains that his or any other land or road has been assessed too high or too low or that any land or road that should have been assessed has not been assessed, or that due consideration has not been given or allowance made as to type of use of land, may personally, or by his agent, give notice in writing to the clerk of the municipality that he considers himself aggrieved for any or all such causes.

Appeal to court of revision

(2) The trial of complaints shall be had in the first instance by and before the court of revision of the local municipality in which the lands and roads assessed are situate, and the first sitting of the court shall be held on a day not earlier than twenty nor later than thirty days from the date of completing the mailing of the copies of the provisional by-law.

Time for holding court

(3) Every notice of appeal to the court of revision shall be given to the clerk of the local municipality at least ten days before the first sitting of the court, but the court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as appear just. 1962-63, c. 39, s. 30 (1-3).

Notices of appeal

(4) Except as otherwise provided in this Act, the provisions of *The Assessment Act* as to the powers of and trial of complaints by the Assessment Review Court apply *mutatis mutandis* to trials by the court of revision under this Act, except that where the assessment commissioner or regional registrar is referred to, such reference shall be deemed to refer to the clerk of the municipality. 1968-69, c. 32, s. 3 (1).

Powers of court of revision, etc.  
R.S.O. 1970, c. 32



Adjournment of court to notify persons affected by alterations

**32.** When the ground of complaint is that lands or roads are assessed too high and the evidence adduced satisfies the court of revision or judge that the assessments on such lands or roads should be reduced and there is no evidence to indicate that the amount of such reduction should be levied against lands or roads whose owners are parties to appeals then pending before the court of revision or judge, the court or judge shall adjourn the hearing of the appeal for a time sufficient to enable the clerk to notify by prepaid mail such persons as the appellant may specify who are shown by the last revised assessment roll to be owners of land affected of the date to which the hearing is adjourned, and the clerk shall so notify all such persons, and at such adjourned hearing the court or judge shall dispose of the matter of appeal and, where appropriate, redistribute the assessments in such manner as appears just. 1962-63, c. 39, s. 31.

Appeal to County judge

**33.**—(1) An appeal from the court of revision lies to the judge, not only against a decision of the court of revision, but also against the omission, neglect or refusal of the court of revision to hear or decide an appeal. 1962-63, c. 39, s. 32 (1).

Application of R.S.O. 1970, c. 32

(2) The provisions of *The Assessment Act* as to appeals to the judge under section 55 of that Act apply *mutatis mutandis* to an appeal under subsection 1, except that the notice of appeal shall be given to the clerk of the municipality in lieu of the assessment commissioner and the clerk upon receipt of such notice shall thereupon perform the duties of the regional registrar. 1970, c. 130, s. 4.

Time for giving judgment

(3) At the court so held, the judge shall hear the appeal and may adjourn the hearing from time to time, but shall give his decision not later than thirty days after the hearing.

Decision to be final

(4) The decision of the judge is final. 1962-63, c. 39, s. 32 (2, 3).

Clerk to alter assessments

**34.** Any change in an assessment made by the court of revision or by the judge shall be given effect to by the clerk of the local municipality altering the assessments and other parts of the schedule to comply therewith and sending notice thereof to the owners affected, and the provisional by-law shall, before the passing thereof, be amended to carry out any changes so made by the court of revision or by the judge. 1962-63, c. 39, s. 33.

Appeal by conservation authority having jurisdiction R.S.O. 1970, c. 78

**35.** Where the proposed drainage works is to be undertaken within a watershed in which a conservation authority under *The Conservation Authorities Act* has jurisdiction, the conservation authority may appeal from the report of the engineer to the referee on the ground that the drainage works will injuriously affect a scheme undertaken by the authority under such Act, and

the provisions of section 36 respecting the notice of appeal, the powers of the referee and the decision of the referee apply to any such appeal. 1962-63, c. 39, s. 34; 1968, c. 33, s. 5.

**36.** Any owner of land or any public utility affected by a drainage works, if dissatisfied with the report of the engineer on the ground that it does not comply with the requirements of this Act, or that the benefits to be derived from the drainage works are not commensurate with the estimated cost thereof, or that the drainage works should be modified, on grounds to be stated, may appeal therefrom to the referee, and in every such case a written notice of appeal shall be served upon the head of the council of the initiating municipality or the clerk thereof within thirty days after the date of mailing of the copy of the provisional by-law under section 29, and the referee may hear and determine the appeal in a summary manner on his own view of the premises and after hearing the parties and, if he sees fit, their witnesses, or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the referee, and the referee on an appeal under this section may make such order as appears just. 1962-63, c. 39, s. 35.

Appeal  
from report  
to referee

**37.** Where the engineer reports that the drainage works is not required or is impractical or cannot be constructed under section 3 or 4, as the case may be, any owner affected by the report, within twenty-one days from the date of the mailing of the notice under subsection 10 of section 8, may appeal therefrom to the referee whose decision is final. 1962-63, c. 39, s. 36.

Appeal  
where  
report  
indicates  
drainage  
works not  
required

**38.**—(1) The council of any local municipality to which a copy of the report was sent under subsection 1 of section 24 may, within six weeks after the report is sent to the clerk, appeal to the referee from the report by serving the clerk of the initiating municipality and the clerk of every other municipality assessed by the engineer with a written notice of appeal setting forth the reasons for such appeal.

Appeal by  
municipality

(2) The reasons for appeal may be the following, or any of them,

Grounds  
for  
appeal

- (a) that the proposed drainage works as it affects the appealing municipality should be abandoned or modified, on grounds to be stated;
- (b) that the course of the drainage works or any part thereof should be altered;
- (c) that the drainage works does not provide a sufficient outlet;
- (d) that the drainage works should be carried to an outlet in the initiating municipality or elsewhere;

- (e) that a petition has been received by the council of the appealing municipality, as provided by subsection 1 of section 3, for the enlargement by the appealing municipality of any part of a drainage works lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition;
- (f) that the assessment against lands and roads within the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. 1962-63, c. 39, s. 37.

Powers of  
referee  
on appeal

**39.** Upon an appeal under section 38, the referee shall hear and adjudicate upon all questions raised by the notice of appeal, as they may affect any municipality in which any land or road is assessed for the drainage works, and he may give to any municipality, through or into which the proposed drainage works will be continued, leave to enlarge the drainage works, pursuant to petition in that behalf and according to the report of an engineer appointed by the referee for that purpose, and may make such order as appears just. 1962-63, c. 39, s. 38.

Construction  
or im-  
provement  
by-law

**40.** Where an initiating municipality has adopted a report for the construction or improvement of a drainage works, after the time for appealing has expired and there are no appeals or after all appeals have been decided, the council of the municipality may pass the provisional by-law, thereby authorizing the construction or improvement of the drainage works. 1962-63, c. 39, s. 39.

Muni-  
cipalities  
required  
to raise  
cost

**41.—(1)** The council of each local municipality to which a copy of a report is required to be sent under subsection 1 of section 24 shall raise and pay over to the treasurer of the initiating municipality its proportion of the cost of the construction and improvement of the drainage works within a reasonable time after the time fixed by subsection 2 for the passing of the by-law.

Imposition  
of special  
assessment

(2) The council of each local municipality that is required to raise the whole or any part of the cost of the construction or improvement of the drainage works shall, forthwith after the time for appealing has expired and there are no appeals or after all appeals have been decided, by by-law impose upon the land assessed for the construction or improvement of the drainage works the assessment with which it is chargeable, and the amount so imposed is payable in such instalments as the council may prescribe.

Commu-  
tation of  
special  
assessment

(3) The council of any local municipality may provide that persons whose lands are assessed may commute for a payment in cash the assessments imposed thereon and may prescribe the terms and conditions thereof.



(4) Where the assessment against any parcel of land is \$25 or less, the council of any local municipality may provide that the assessment shall be paid out of the general funds of the municipality or that the assessment shall be paid in the first year in which the assessment is imposed upon the land assessed.

Assessments  
of \$25  
or less

(5) The assessments and rates imposed under this Act shall be deemed to be taxes, and the provisions of *The Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default of payment thereof, apply. 1962-63, c. 39, s. 40.

Application  
of R.S.O.  
1970,  
c. 284

(6) Notwithstanding the provisions of any general or special Act, land exempt from taxation is for all purposes, except petitioning for or against undertaking a drainage works, subject to the provisions of this Act and shall be specially assessed, and the special assessments so imposed that fall due while such land remains exempt from taxation shall be paid by the municipality that imposed the assessments, provided that such special assessments imposed upon land on which a church or place of worship is erected and that is used in connection therewith, land of a university, college or seminary of learning, whether vested in a trustee or otherwise, and land of a board of an elementary or secondary school as defined in *The Schools Administration Act*, shall be paid by the owners of the land. 1968, c. 33, s. 6 (1); 1970, c. 130, s. 5.

Land  
exempt  
from  
taxation  
to be  
specially  
assessed

R.S.O. 1970,  
c. 424

(7) Subsection 6 applies to all drainage works in respect of which an engineer's report is adopted after the 23rd day of July, 1968. 1968, c. 33, s. 6 (2), *amended*.

Application  
of subs. 6

**42.** A by-law authorizing the construction, improvement or maintenance of a drainage works may be repealed at any time before the work is commenced and before any assessment has been levied against the land assessed, and in such case the council of the initiating municipality shall pay all expenses in connection therewith out of the general funds of the municipality. 1962-63, c. 39, s. 41.

Abandon-  
ment of  
work by  
initiating  
municipality

**43.** The council of a local municipality may by by-law provide for the payment to the clerk of the municipality of reasonable fees or other remuneration for services performed by him in carrying out the provisions of this Act. 1962-63, c. 39, s. 42.

Fees of  
clerk

**44.** If no notice of intention to make application to quash a by-law is served upon the clerk of the municipality within ten days after the passing of the by-law or, where a notice of intention has been given, if an application to quash is not made to the referee within three months after the passing of the by-law, the by-law, or so much thereof as is not the subject of or is not

Quashing  
of by-law



quashed upon any such application, is valid and binding according to its terms, so far as it ordains, prescribes or directs anything within the proper competence of the council. 1962-63, c. 39, s. 43.

Municipality may sue for damages to drainage works

**45.** A municipality in which a drainage works or part thereof is situate may bring an action for damages against any person who destroys or injures in any way a drainage works, including any bench mark or permanent level established under subsection 3 of section 7, and any damages ordered by the court to be paid shall be paid to the municipality and used for the construction, improvement or maintenance of the drainage works. 1962-63, c. 39, s. 44.

Expenses to be deemed part of the cost of drainage works

**46.** Except where otherwise provided by this Act or by a decision on an appeal, the cost of and incidental to the passing and serving of by-laws or to any reference or appeal or the construction, improvement and maintenance of a drainage works shall form part of the cost of the drainage works. 1962-63, c. 39, s. 45.

Tenant's covenant to pay taxes, when to include drainage assessments

**47.** Any agreement on the part of a tenant to pay the rates or taxes in respect of the demised land does not include the charges and assessments for a drainage works unless the agreement in express terms so provides, but, in cases of contract to purchase or of leases giving the lessee an option to purchase, the charges and assessments for a drainage works, in connection with which proceedings were commenced under this Act after the date of the contract or lease and which have been already paid by the owner, shall be added to the price and shall be paid by the purchaser or the lessee in case he exercises his option to purchase, but the amount still unpaid on the cost of the drainage works and charged against the lands shall be borne by the purchaser unless otherwise provided by the conveyance or agreement. 1962-63, c. 39, s. 46.

Amendment of by-law when insufficient funds provided

**48.—(1)** Any by-law heretofore or hereafter passed by the council of a local municipality for the assessment upon the lands and roads liable to contribute for a drainage works and that has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage works or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the council, and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law.

When lands and roads in another municipality assessable

**(2)** Where in any such case lands and roads in another municipality are assessed for the drainage works, the council of the initiating municipality shall appoint an engineer to make an examination of the drainage works and to report upon it with an estimate of the cost of completion for which sufficient funds have

not been provided under the original by-law, and shall notify the heads of the other local municipalities as in the case of the original report, and the council of any municipality so notified has the same right of appeal to the referee as to the improper expenditure or illegal or other application of the drainage money already raised and is subject to the same duty, as to raising and paying over its share of the money to be raised, as in the case of the original by-law.

(3) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage works acted upon by the completion of the drainage works that provides more than sufficient funds for the completion of or proper contribution towards the drainage works or for the redemption of the debentures authorized to be issued thereunder as they become payable shall be amended, and, if lands and roads in any other municipality are assessed for the drainage works, the surplus money shall be divided *pro rata* among the contributing municipalities, and every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the assessment in payment of the rates imposed by it for the drainage works in each and every year after the completion of the drainage works, and, in case such assessment upon any land has been commuted or anticipated by payment in full, payment shall be made to the owner of such lands as shown by the last revised assessment roll of the municipality in all respects as if such assessment had not been so commuted or anticipated. 1962-63, c. 39, s. 47.

Amendment  
of by-law  
when  
excessive  
funds  
provided

**49.** Any drainage works constructed under a by-law passed under this Act or any predecessor of this Act, relating to the construction or improvement of a drainage works by local assessment, shall be maintained by each local municipality through which it passes, to the extent that such drainage works lies within the limits of such municipality, at the expense of the lands and roads in any way assessed for the construction or improvement of the drainage works and in the proportion determined by the then current by-law pertaining thereto until, in the case of each municipality, such provision for maintenance is varied or otherwise determined by an engineer in a report for the maintenance of the drainage works or on appeal therefrom. 1962-63, c. 39, s. 48.

Maintenance  
of drainage  
works  
and cost

**50.—(1)** The council of any local municipality undertaking the repair of a drainage works shall, before commencing the repairs,

Service  
of by-law  
on municipa-  
lity  
liable for  
contribu-  
tion, and  
appeal

- (a) give two readings to a by-law for undertaking such repairs, which by-law shall recite the description, extent and estimated cost of the repairs to be done and the amount to be contributed therefor by each local municipality affected by the drainage works and shall be known as a provisional by-law; and

- (b) serve upon the head or clerk of any municipality liable to contribute any portion of the cost of such repairs a copy of the provisional by-law,

and the council of any municipality so served may, within thirty days thereafter, appeal from such by-law to the referee on the ground that the amount assessed against the lands and roads in such municipality is excessive or that the work provided for in the by-law is unnecessary, or that such drainage works has never been completed through the default or neglect of the municipality whose duty it was to do the work, and the referee on such appeal may confirm such provisional by-law, or may direct that it be amended or that it not be passed, as appears just.

Council  
served to  
furnish  
amount  
required

(2) The council of every municipality served with a copy of the provisional by-law shall, forthwith after the time for appealing from such by-law has expired and there are no appeals or after all appeals have been decided, pass a by-law to raise the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as determined on appeal therefrom, and shall pay over such amount within a reasonable time to the treasurer of the initiating municipality. 1962-63, c. 39, s. 49.

Varying  
original  
assessments  
for main-  
tenance

**51.**—(1) The council of any local municipality liable for contribution to a drainage works in connection with which conditions have changed or circumstances have arisen such as to justify a variation of the assessment for maintenance of the drainage works may make an application to the referee, of which notice has been given to the head of every other municipality affected by the drainage works, for permission to procure a report of an engineer to vary the assessment, and, in the event of such permission being given, such council may appoint an engineer for such purpose and may adopt the report, but, if all the lands and roads assessed or intended to be assessed lie within the limits of one local municipality, the council of that municipality may procure and adopt such report without such permission.

Proceedings  
on report of  
engineer

(2) The proceedings upon such report shall be the same, as nearly as may be, as upon the report for the construction of the drainage works.

Appeal from  
report of  
engineer

(3) Any council served with a copy of such report may appeal to the referee from the finding of the engineer as to the portion of the cost of the drainage works for which the municipality is liable, and the proceedings on such appeal shall be the same as in other cases of appeal to the referee.

Appeal to  
court of  
revision

(4) Any owner of land, and any ratepayer in a municipality in which roads are assessed for such maintenance, may appeal from the assessment in the report in the manner provided in the case of the construction of the drainage works.

(5) Such assessment as so varied shall thereafter, until it is further varied, form the basis of any assessment for maintenance of the drainage works affected thereby. 1962-63, c. 39, s. 50.

Basis of  
future  
assessments

**52.**—(1) The council of any local municipality, whose duty it is to maintain a drainage works for which only lands and roads within or under the jurisdiction of the municipality are assessed, may, after the completion of the drainage works, without the report of an engineer, upon a *pro rata* assessment on the lands and roads as last assessed for the construction or maintenance of the drainage works, make improvements thereto by deepening, widening or extending the drainage works to an outlet, provided the cost of such deepening, widening and extending is not more than one-fifth of the cost of the construction, and does not in any case exceed \$1,500.

Deepening,  
widening or  
extending  
without  
report of  
engineer

(2) Where the Province of Ontario or any municipality or suburban road commission desires to relocate a drainage works or part thereof that is on or adjacent to a road under its jurisdiction, upon the report of an engineer appointed by the municipality whose duty it is to maintain the drainage works that the drainage works or part thereof can be moved to a specified new location without impairing the capacity or efficiency of such drainage works or adversely affecting any person or property, the council of a local municipality may authorize such relocation within the boundaries of the municipality at the expense of the Province, municipality or commission, as the case may be. 1962-63, c. 39, s. 51.

Moving  
drainage  
works  
off road

**53.**—(1) Where, for the better use or maintenance of any drainage works constructed under a by-law passed under this Act or any predecessor of this Act, or of lands or roads, it is considered expedient to change the course of the drainage works, or to make a new outlet for the whole or any part of the drainage works, or to construct a tile drain under the bed of the whole or any part of the drainage works as ancillary thereto, or to construct, reconstruct or extend embankments, walls, dykes, dams, reservoirs and other protective works as ancillary to the drainage works, or to otherwise improve, extend or alter the drainage works or to cover the whole or any part of it, or to consolidate two or more drainage works, the council of any municipality whose duty it is to maintain the drainage works or any part thereof may, without the petition required by subsection 1 of section 3 but on the report of an engineer appointed by it, undertake and complete the drainage works as set forth in such report. 1962-63, c. 39, s. 52 (1).

Improving,  
upon ex-  
amination  
and report  
by engineer

(2) Except where emergency work is required to be performed, an engineer shall not be appointed under subsection 1 until thirty days after a notice advising of the proposed drainage works has been sent by prepaid mail to the secretary-treasurer of each

Notice to  
conservation  
authorities



R.S.O. 1970,  
c. 78

authority under *The Conservation Authorities Act* that has jurisdiction over any of the lands that would be affected. 1968, c. 33, s. 7.

Powers and  
duties of  
engineer

(3) The engineer has all the powers and shall perform all the duties of an engineer appointed with respect to the construction of a drainage works under this Act.

Proceedings  
on report  
and appeals

(4) All proceedings, including appeals, with respect to a report under subsection 1 and the assessments therein shall be the same as on a report for the construction of a drainage works and the assessments therein. 1962-63, c. 39, s. 52 (2, 3).

Power to  
compel  
repairs

**54.**—(1) Upon thirty days notice in writing served by any person whose property is injuriously affected by the condition of a drainage works, upon the head or clerk of the local municipality whose duty it is to maintain and keep in repair the drainage works, the municipality is compellable by mandamus issued by the referee or a court of competent jurisdiction to exercise the powers and to perform the duties conferred or imposed upon it by this Act as to maintenance, or such of the powers as to the referee or court appears proper, and the municipality is liable in damages to the owner whose property is so injuriously affected.

Municipality  
liable for  
damages  
caused by  
non-repair

(2) Notwithstanding subsection 1, the local municipality whose duty it is to maintain a drainage works shall not become liable in damages to any person whose property is injuriously affected by reason of the non-repair of the drainage works until after service by or on behalf of such person of the notice referred to in subsection 1 upon the head or clerk of the municipality, describing with reasonable certainty the alleged lack of repair of the drainage works.

No liability  
where  
drainage  
works  
blocked by  
ice or snow

(3) The local municipality whose duty it is to maintain a drainage works is not liable in damages for any injury caused by reason of a drainage works being blocked by snow or ice and overflowing the lands of any person without negligence on the part of the municipal corporation. 1962-63, c. 39, s. 53.

Persons  
responsible  
for  
obstruction  
to remove  
it on notice

**55.**—(1) When a drainage works becomes obstructed by a dam, low bridge, fence, washing out of a private drain, or other obstruction, for which the land adjoining the drainage works or the owner or occupant thereof is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council of the local municipality whose duty it is to maintain the drainage works or by a commissioner appointed by the council, remove such obstruction and, if it is not so removed within the time specified in the notice, the council or the commissioner shall forthwith cause it to be removed, and the cost thereof is payable to the municipality by the owner or occupant of the land.

(2) If the cost of removing the obstruction is not paid to the local municipality by the owner or occupant of the land forthwith after the completion of the work, the council may pay the cost, and the clerk of the municipality shall place the amount of cost upon the collector's roll against such land and such amount shall be collected in the same manner as real property taxes. 1962-63, c. 39, s. 54.

Collection of cost of removal by municipality

**56.** The council of a local municipality may by by-law direct that the commissioner appointed by it shall from time to time remove from any drainage works all weeds and brushwood, fallen timber or other minor obstruction for which the owner of the lands adjacent to the drainage works or the owner or occupant thereof may not be responsible, and the cost of such work is chargeable as part of the cost of maintenance of the drainage works. 1962-63, c. 39, s. 55.

Removal of minor obstructions

**57.** It is not necessary to assess and levy the amount charged for maintenance more than once in every five years unless in the meantime the total expense incurred exceeds the sum of \$1,000. 1962-63, c. 39, s. 56.

When levy for maintenance necessary

**58.** Every person who obstructs, fills up or injures or destroys by any means any drainage works is guilty of an offence and on summary conviction, in addition to his liability in civil damages, is liable to a fine of not less than \$10 and not more than \$100 or to imprisonment for a term of not more than thirty days, or to both. 1962-63, c. 39, s. 57.

Penalty for injury to drainage works

**59.** For the better maintenance of drainage works by embanking, pumping or other mechanical operations, the council of the municipality initiating the drainage works may pass by-laws for appointing a commissioner or commissioners with power to enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings, and purchase and repairs of machinery, and to do all other things necessary for successfully operating the drainage works and for keeping the embankment thereof in repair, as may be set forth in the by-law appointing them, and for defraying the annual cost of maintaining and operating the drainage works by assessment upon the lands and roads in any way liable to assessment therefor. 1962-63, c. 39, s. 58.

Appointment of commissioner for pumping drainage works

**60.**—(1) Except as authorized by a by-law of the initiating municipality approved by the Ontario Water Resources Commission, no person shall discharge or deposit or permit to be discharged or deposited into any drainage works any liquid, material or substance other than unpolluted drainage water.

Pollution of drains prohibited

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. 1962-63, c. 39, s. 59.

Fine

Abandonment of all or part of drainage works

**61.**—(1) Upon the written request of three-quarters of the owners of land assessed for benefit in respect of a drainage works, who, according to the last revised assessment roll, own not less than three-quarters of the area assessed for benefit as shown in the by-law or by-laws under which the drainage works exist, asking for the abandonment of such drainage works or a part thereof, the council of the initiating municipality shall forthwith notify all owners of land assessed for the drainage works by prepaid mail, at their addresses as shown in the last revised assessment roll, of its intention to abandon such drainage works, or such part thereof as is specified in the notice, unless any owner, within ten days of the mailing of such notice, gives to the clerk of the municipality written notice that he requires a report of an engineer to be made on such proposed abandonment, or the council of the initiating municipality may give such notice of its intention to abandon a drainage works or such part thereof as is specified in the notice without any written request. 1966, c. 47, s. 1.

Engineer's report may be required

(2) If, within such period of ten days, any owner notifies the clerk, the council shall appoint an engineer to examine the drainage works and report his recommendations as to the proposed abandonment, any necessary work in connection therewith, the sale of any assets, the cost of abandonment and all other appropriate matters and shall assess all costs, including his own compensation, and damage allowances against persons liable to assessment in connection with the drainage works in such proportions as appear just.

Procedures on report

(3) All proceedings, including appeals, with respect to a report under subsection 1 shall be the same *mutatis mutandis* as on a report for the construction of a drainage works.

Abandonment by council

(4) If no notice is mailed to the clerk in accordance with subsection 1 or if the engineer's report, as it may be altered on appeal, recommends the abandonment of the drainage works, the council may by by-law abandon the drainage works, and thereafter the municipality has no further obligation with respect to the drainage works.

Disbursement of remaining funds

(5) Any money remaining to the credit of the drainage works after it is abandoned shall be divided *pro rata* among the owners of lands and roads assessed therefor. 1962-63, c. 39, s. 60 (2-5).

Provincial grants

**62.**—(1) Grants may be made in respect of assessments made under this Act upon lands used for agricultural purposes provided the drainage works were undertaken in accordance with section 3, 49 or 53 and a report of an engineer has been adopted in accordance with this Act.

Exceptions

(2) Grants shall not be made in respect of assessments made under this Act upon lands owned by Canada, Ontario or a municipality or in respect of the assessment of the cost of lateral drains. 1968, c. 33, s. 8.



**63.**—(1) Where a provisional by-law has been passed under section 40 and assessments in respect of the proposed drainage works are eligible for a grant under this Act, the council of the initiating municipality shall forward to the Department before the construction or improvement of the drainage works is commenced a notice in such form as is prescribed by the Department advising of the proposed works and of the intention to apply for a grant in respect thereof.

Notice of  
proposed  
drainage  
works

(2) Notwithstanding subsection 1, where it is necessary for a local municipality to perform emergency work under this Act before it is possible to obtain and adopt an engineer's report, the council may forward the notice required by subsection 1 after the commencement of the work if the Department has been given notice of the emergency work within ten days after the commencement thereof. 1968, c. 33, s. 9, *part*.

Emergency  
work

**64.**—(1) Upon the practical completion of the drainage works and after the time for appealing against assessments has expired and there are no appeals or after all appeals against assessments have been decided, the council of the initiating municipality shall forward to the Department an application for a grant in such form as is prescribed by the Department.

Application  
for grant

(2) The Minister, upon receipt of a duly completed application for a grant, may pay out of such moneys as are appropriated therefor by the Legislature to the treasurer of the initiating municipality a grant of,

Payment  
of grant

- (a) where the drainage works is in a county,  $33\frac{1}{3}$  per cent of the assessments eligible for a grant under section 62; or
- (b) where the drainage works is in a municipality in a territorial district or a provisional county,  $66\frac{2}{3}$  per cent of the assessments eligible for a grant under section 62.

(3) Where the drainage works is in two or more municipalities the grant shall be distributed by the treasurer of the initiating municipality among all such municipalities in the proportion that the total of the assessments eligible for a grant in each municipality bears to the total of all assessments eligible for a grant in all of the municipalities.

Distribution

(4) The treasurer of each municipality shall apply the amount of the grant received by that municipality to reduce the assessment on each parcel of land in the municipality eligible for a grant in the proportion that each such assessment bears to the total of the assessments eligible for a grant in the municipality. 1968, c. 33, s. 9, *part*.

Grant to  
be applied  
to reduce  
assessments

**65.**—(1) The Minister in his discretion and from time to time may prescribe the manner in which a drainage works shall be initiated and carried out in territory without municipal organiza-

Initiation of  
drainage  
works in  
unorganized  
territory



tion and the manner in which and the terms and conditions under which grants may be given under subsection 2. 1962-63, c. 39, s. 65 (1).

Grants in  
unorganized  
territory

(2) Where a drainage works is in territory without municipal organization, an amount not exceeding 80 per cent of the assessments eligible for a grant under section 62 in respect of such drainage works may be paid by the Minister out of the moneys appropriated therefor by the Legislature. 1968, c. 33, s. 10.

Referee,  
appoint-  
ment

**66.**—(1) The Lieutenant Governor in Council may appoint a referee for the purposes of this Act.

Appoint-  
ment of  
acting  
referee

(2) The Lieutenant Governor in Council from time to time may appoint an acting referee or referees for the purposes of this Act, and an acting referee has the same powers and duties as the referee.

Qualifica-  
tion

(3) The referee or an acting referee shall be a justice of the Supreme Court, a judge of a county court or a barrister of at least ten years standing at the bar of Ontario.

Referee  
not to  
practise  
under Act

(4) No referee or acting referee shall practise as a solicitor or barrister in any matter arising under this Act or act as legal agent or adviser in any such matter. 1962-63, c. 39, s. 66 (1-4).

Salary

(5) Notwithstanding any other Act, the referee or an acting referee shall be paid such remuneration as the Lieutenant Governor in Council may determine, together with his reasonable travelling expenses and expenses for secretarial services. 1962-63, c. 39, s. 66 (5); 1966, c. 47, s. 2; 1968, c. 33, s. 11.

Powers of  
referee

**67.**—(1) In respect of all applications and proceedings before him, the referee has the powers of a judge of the Supreme Court, including the production of books and papers, the amendment of notices of appeal and of notices of claims for compensation or damages, and of all other notices and proceedings, and he may correct errors or supply omissions, fix the time and place of hearing, appoint the time for his inspection, summon to his aid engineers or other experts, and regulate and direct all matters incident to the hearing, trial and decision of the matters before him so as to do justice between the parties, and he may also grant an injunction or a mandamus in any matter before him under this Act.

Power to  
determine  
validity  
of proceed-  
ings and  
amend  
report

(2) The referee has power to determine the validity of all petitions, resolutions, reports and provisional or other by-laws, whether or not objections thereto have been stated as grounds of appeal to him, and to amend and correct any provisional by-law in question, and, with the engineer's consent and upon evidence given, to amend the report in such manner as appears just, and

upon such terms as to notice or otherwise as may be considered proper for the protection of all parties interested, and, if necessary by reason of such amendments, to change the gross amount of any assessment made against any municipality, but in no case shall he assume the duties conferred by this Act upon the court of revision or a judge. 1962-63, c. 39, s. 67.

**68.**—(1) The referee at any time after an appeal or reference is made to him may give directions for the filing or serving of objections and defences to such appeal or reference and for the production of documents and otherwise, and may give an appointment to any party to the appeal or reference, to proceed therewith at such place and time and in such manner as to him may seem proper, but, unless the parties otherwise consent, the hearing shall be in the county or one of the counties in which the drainage works or proposed drainage works is or is to be situate or in which lands are assessed therefor.

Referee  
to direct  
procedure

(2) The clerk of the county court shall be the clerk of the court of the referee and shall take charge of and file all the exhibits, and is entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the county court.

Clerk of  
court

(3) The clerk of the court is entitled to such fees as the referee may direct for his attendance at the court, and such fees shall be included in the costs and shall be borne and paid as the referee may direct.

Fees of  
clerk

(4) In the absence of the clerk of the county court, the referee may appoint some other person to act as clerk of the court of the referee for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed while so acting has the same power as the clerk of the county court and is entitled to such fees as the referee may direct for his attendance at the court, and such fees shall be included in the costs and shall be borne and paid as the referee may direct.

Referee's  
clerk

(5) Subpoenas for the attendance of witnesses at the hearing, tested in the name of the referee, may be issued by the clerk of the county court of the county in which the case is to be heard.

Subpoenas

(6) The referee may from time to time employ stenographic reporters to report hearings and trials before the referee and fix their fees, and such fees shall be included in the costs and shall be borne and paid as the referee may direct. 1962-63, c. 39, s. 68.

Steno-  
graphic  
reporters

**69.** When an appointment is given by the referee for the hearing of any matter under this Act in any municipality wherein a court house is situated, he has in all respects the same authority as a judge of the Supreme Court with respect to the use of the court house or other place or apartments set apart in the county for the administration of justice. 1962-63, c. 39, s. 69.

Use of  
court  
house

Sheriffs,  
etc., to  
assist  
referee

**70.** Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificates of the referee, be paid by the county or counties interested such fees as they are entitled to for similar services at the sittings of the Supreme Court for the trial of causes. 1962-63, c. 39, s. 70.

Notice of  
appeal from  
report or  
provisional  
by-law  
to be filed

**71.** A copy of the notice of appeal by any municipality from the report of an engineer or from a provisional by-law, with an affidavit of service thereof, shall, within the time limited by this Act for the service of the notice, be filed in the office of the clerk of the county court of the county or union of counties in which the initiating municipality is situate. 1962-63, c. 39, s. 71.

Amendment  
of by-law  
to carry out  
decision of  
referee

**72.—**(1) The provisional by-law or the by-law of the initiating municipality and of any other municipality interested shall be amended so as to incorporate and carry into effect the decision of the referee or such decision as varied on appeal, as the case may be.

Jurisdiction  
of referee  
on appeal

(2) Upon an appeal to the referee, he shall hear and adjudicate upon all questions raised in the notice of appeal and make such order as appears just, and may direct that the report appealed from be amended.

Costs  
of appeal

(3) The costs of such an appeal are in the discretion of the referee. 1962-63, c. 39, s. 72.

Applications  
to set aside  
by-law,  
report  
heard

**73.** Subject to section 76, applications to set aside, declare void or otherwise directly or indirectly to attack the validity of any petition, report of an engineer, resolution of a council, provisional by-law or by-law relating to a drainage works, as well as all proceedings to determine claims and disputes arising in respect of anything done or required to be done under this Act or consequent thereon, or by reason of negligence, or for a mandamus or injunction, shall be made to and shall be heard and tried by the referee, who shall give his decision and his reasons therefor. 1962-63, c. 39, s. 73.

Proceedings  
instituted  
by notice

**74.—**(1) Proceedings for the determination of claims and disputes and for the recovery of damages by reason of negligence, or by way of compensation or otherwise, or for a mandamus or an injunction, shall be instituted by serving ten clear days notice setting forth the grounds of the claim upon all persons concerned.

Notice  
filed in  
county  
court

(2) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the county court of the county in which the initiating municipality is situate, and the notice shall be filed and served within two years from the time the cause of complaint arose. 1962-63, c. 39, s. 74.

**75.** All affidavits intended to be used in support of a motion shall be filed with the clerk of the county court not fewer than five days before the return day of the motion. 1962-63, c. 39, s. 75.

Affidavits  
filed before  
motion

**76.**—(1) Where an action is brought or is pending and the court in which the action is brought or is pending or a judge thereof is of opinion that the relief sought therein is properly the subject of a proceeding under this Act or that it may be more conveniently tried before and disposed of by the referee, the court or judge may, on the application of either party, at any stage of the action make an order transferring it to the referee on such terms as appear just, and the referee shall thereafter give directions for the continuance of the action before him.

Actions  
may be  
transferred  
to referee

(2) This section applies only where the action is brought within the period limited by this Act for taking proceedings on notice. 1962-63, c. 39, s. 76.

Limitation

**77.**—(1) Except as provided by subsections 2, 3 and 4, all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied upon the lands and roads in any way assessed for the drainage works for construction, improvement or maintenance, in such manner as the referee or court may determine, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act. 1962-63, c. 39, s. 77 (1); 1966, c. 47, s. 3 (1).

Assessing  
damages  
and costs  
payable  
by municipi-  
alities

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers in the construction, improvement or maintenance of the drainage works or in carrying out the provisions of this Act, the referee or court may direct that the whole or any part of such damages and costs shall be borne by the municipality and be payable out of the general funds thereof. 1962-63, c. 39, s. 77 (2).

Municipi-  
pality in  
default  
ordered to  
pay costs

(3) Where in any such proceedings by or against a municipality a settlement is made, the damages and costs payable under the terms of the settlement by any municipality shall be borne and paid as directed by the referee or court, and in making such direction the referee or court shall have regard to the provisions of subsection 2. 1962-63, c. 39, s. 77 (3); 1966, c. 47, s. 3 (2).

In cases  
of settle-  
ment

(4) Where, in the opinion of the referee or court, damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage works and it is necessary in order to prevent a continuance of such damage to improve the drainage works, the referee or court may permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement, and in such case the

Where  
extension  
of drainage  
works  
necessary



engineer shall include the amount of such damages and costs in his estimate of the cost of the improvement of the drainage works. 1962-63, c. 39, s. 77 (4); 1966, c. 47, s. 3 (3).

When  
referee  
proceeds  
on view

**78.** When the referee proceeds partly on view or on any special knowledge or skill possessed by him, he shall put in writing a statement thereof sufficiently full to allow the Court of Appeal to form a judgment of the weight that should be given thereto, and he shall state as part of his reasons the effect given by him to such statement. 1962-63, c. 39, s. 78.

Clerk to  
forward  
notice of  
filing

**79.** The decision of the referee, with the evidence, exhibits and statement, if any, of inspection or of technical knowledge and the reason for his decision, shall be filed in the office of the clerk of the county court in the county in which the initiating municipality is situate, and notice of the filing shall forthwith be given by the clerk, by prepaid mail, to the solicitors of the parties appearing by solicitor and to the other parties not represented by a solicitor, and also to the clerk of each municipality affected. 1962-63, c. 39, s. 79.

Decision  
to be sent  
to  
Minister  
and municip-  
alities

**80.** A copy of the decision certified by the referee or clerk of the court shall be sent or delivered,

(a) to the Minister without charge; and

(b) to the clerk of every municipality interested in the drainage works in question upon receipt of the sum chargeable therefor. 1962-63, c. 39, s. 80.

Decision,  
manner of  
delivery

**81.** The decision of the referee shall be delivered in the same manner as decisions by the judges of the Supreme Court. 1962-63, c. 39, s. 81.

Interlocu-  
tory  
applications

**82.** All interlocutory applications for any of the purposes mentioned in subsection 1 of section 67 shall be made to the referee and his order thereon is final. 1962-63, c. 39, s. 82.

Appeal  
from  
decision  
of referee

**83.**—(1) Except as otherwise provided in this Act, the decision of the referee or acting referee may be appealed from to the Court of Appeal within thirty days after the filing thereof with the county court clerk or within such further time as the referee or Court of Appeal or a judge thereof may allow.

Procedure

(2) The decision may be appealed against to the Court of Appeal in the same manner as a decision of a judge of the Supreme Court sitting in court. 1962-63, c. 39, s. 83.

Evidence  
taken need  
not be  
filed or  
written  
out

**84.** In cases brought before the referee, the evidence taken need not be filed, and shall be written out at length by the stenographic reporter only if required by the referee or by the

parties to the reference, and, if required by any of the parties to the reference, copies shall be furnished upon such terms as may be fixed by the referee. 1962-63, c. 39, s. 84.

**85.** Except as otherwise provided in this Act, the rules and practice for the time being of the Supreme Court shall be followed so far as they are applicable. 1962-63, c. 39, s. 85. Rules and practice

**86.** The referee may, with the approval of the Lieutenant Governor in Council, make rules regulating the practice and procedure to be followed in all proceedings before him under this Act, and may prescribe tariffs of fees. 1962-63, c. 39, s. 86. Referee may make rules

**87.** In the absence of other provisions, the tariff of costs in any application or proceeding under this Act shall be that of the court that would have jurisdiction to try a civil action involving a similar amount of money or type of proceeding. 1962-63, c. 39, s. 87. Tariff of costs

**88.** Costs shall be taxed by the referee, or he may direct the taxation thereof by the clerk of the county court with whom the papers are filed or by a taxing officer of the Supreme Court. 1962-63, c. 39, s. 88. Taxation of costs

## FORM 1

(Section 3)

## PETITION FOR DRAINAGE WORKS

We, being owners, as shown by the last revised assessment roll, of lands in the ..... of .....  
*(Insert name of municipality or names of municipalities)*  
 required drainage, hereby petition that the area more particularly described as follows:

*(Describe the area)*

may be drained by means of a drainage works.

*Signature*                      *Part*              *Lot*              *Con. or Plan*      *Municipality*

1962-63, c. 39, Form 1.

## FORM 2

(Section 4 (1) )

## REQUISITION FOR EXAMINATION BY ENGINEER

To .....

Clerk of the ..... of .....

Sir,—

I am the owner of the following land:

*(Describe the land)*

and I require the construction *(or improvement, as the case may be)* of a drainage works, and the following lands and roads will be affected:

*(Describe each parcel of land to be affected  
 and state the name of the owner thereof)*

and I request that an engineer be appointed by the council of the municipality and that he appoint a time and place at which he will attend and examine the area in order to make a report.

Dated this ..... day of ....., 19.....

.....  
*(Signature of party or parties)*

1962-63, c. 39, Form 2.

FORM 3

(Section 4 (7) )

NOTICE OF APPOINTMENT FOR  
EXAMINATION BY ENGINEER

To: (*Name of owner*)

(*Address*)

Sir,—

You are hereby notified that the engineer appointed by the council  
of the.....of.....under  
section 4 of *The Drainage Act* has, in answer to a requisition, fixed the hour  
of.....o'clock in the.....noon of  
the.....day of....., 19....., to attend  
at (*name the place appointed*) and to examine the area and site of the proposed  
drainage works, being:

(*Here describe the area and site*)

and you, as an owner of land affected, are required to attend at such time and  
place.

Dated this.....day of....., 19...

.....  
(*Signature of Clerk*)



## FORM 4

(Section 27)

## FORM OF BY-LAW

A by-law to provide for a drainage works in the . . . . .  
 of . . . . . in the County of . . . . ., and  
 for borrowing on the credit of the municipality the sum of \$. . . . .  
 for completing the drainage works (or the sum of \$. . . . ., the  
 proportion to be contributed by the municipality for completing the drainage  
 works).

Whereas the requisite number of owners, as shown by the last revised  
 assessment roll, of the property hereinafter set forth requiring drainage have  
 petitioned the council of the . . . . . of . . . . .  
 praying that the following lands and roads may be drained by a drainage works:

(Set out description of lands and roads)

And whereas the council has procured a report made by . . . . .  
 . . . . . and the report is as follows:

(Here set out the engineer's report)

And whereas the council is of opinion that the drainage of the area described is  
 desirable;

Therefore the council of the . . . . . of . . . . .,  
 pursuant to *The Drainage Act* enacts as follows:

1. The report is hereby adopted, and the drainage works as therein indicated  
 and set forth are hereby authorized and shall be completed in accordance  
 therewith.

2. The Corporation of the . . . . . of . . . . .  
 may borrow on the credit of the Corporation the sum of \$. . . . .,  
 being the funds necessary for the drainage works not otherwise provided for (or  
 being the municipality's proportion of the funds necessary for the drainage  
 works); provided that such sum shall be reduced by the amount of grants and  
 commuted payments with respect to lands and roads assessed, and may issue  
 debentures of the Corporation to that amount in sums of not less than \$50 each,  
 and payable within . . . . . years from the  
 date of such debentures with interest at the rate of . . . . . per cent  
 per annum:

(Insert the manner of payment annually and whether with or without  
 coupons, and, if the latter, omit the last lines of this paragraph)

such debentures to be payable at . . . . ., and to have  
 attached to them coupons for the payment of interest.

3. For paying the sum of (\$410), the amount charged against such lands and  
 roads for benefit, and the sum of (\$108), the amount charged against such lands  
 and roads for outlet liability, and the sum of (\$135), the amount charged against  
 such lands and roads for injuring liability, apart from lands and roads belonging to  
 or controlled by the municipality and for covering interest thereon for . . . years, at  
 the rate of . . . . . per cent per annum, the following total special rates over  
 and above all other rates shall be assessed, levied and collected (in the same  
 manner and at the same time as other taxes are levied and collected) upon and

from the undermentioned parcels of land and parts of parcels and roads, and the amount of the total special rates and interest against each parcel or part of parcel respectively shall be divided into. . . . . equal parts, and one such part shall be assessed, levied and collected as aforesaid, in each year, for. . . . . years, after the passing of this by-law, during which the debentures have to run, provided that no greater amount shall be levied than is required after taking into account and crediting the amount of grants under subsection 3 of section 64 of *The Drainage Act*, the amount of moneys paid under a by-law passed under subsection 4 of section 41 of that Act and commuted payments with respect to lands and roads assessed.

Concession	Parcel of land or part thereof	Acres affected	Benefit assessment	Outlet liability assessment	Injuring liability assessment	Estimated grant	To cover interest for . . . . . years at . . . . . per cent	Total special rate	Annual assessment during each year for . . . . . years
			\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.
10	5	200	100 00	23 00					
10	S. $\frac{1}{2}$ 6	100	50 00	10 00					
10	N. $\frac{1}{4}$ 6	50	30 00	5 00					
10	S. $\frac{1}{2}$ 8	100	80 00	13 00					
10	S. $\frac{1}{2}$ & N. W. $\frac{1}{4}$ 9	} 150	150 00	20 00					
10	4	76	.....	24 00					
10	S. $\frac{1}{2}$ 3	100	.....	13 00					
9	W. $\frac{1}{2}$ 5	100	.....		40 00				
9	N. $\frac{1}{4}$ 6	50	.....		25 00				
9	N. $\frac{1}{2}$ & S. E. $\frac{1}{4}$ 7	} 150	.....		70 00				
Total for benefit. . . . .			410 00	108 00	135 00				
" outlet. . . . .			108 00						
" injuring. . . . .			135 00						
Roads (and lands) of municipality. . . . .			100 00						
TOTAL. . . . .			\$753 00						

4. For paying the sum of (\$100), the amount assessed against such roads and lands of the municipality, and for covering interest thereon for. . . . . years at the rate of. . . . . per cent per annum, a special rate, sufficient to produce the required yearly amount therefor, shall, over and above all other rates, be levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the whole rateable property in the. . . . . of. . . . . in each year for. . . . . years, after the passing of this by-law, during which the debentures have to run.

5. This by-law comes into force on the passing thereof, and may be cited as the “.....By-law”.

FIRST READING.....

SECOND READING.....

THIRD READING.....

ENACTED this.....day of....., 19.....

.....  
(Head of Municipality)

.....  
(Clerk)

1962-63, c. 39, Form 4.

\_\_\_\_\_

CHAPTER 137

The Drugless Practitioners Act

- 1.** In this Act,
- (a) “Board” means the Board of Regents appointed under this Act; Interpretation
  - (b) “drugless practitioner” means a person who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human body by manipulation, adjustment, manual or electro-therapy or by any similar method;
  - (c) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 114, s. 1.
- 2.—**(1) The Board of Regents established under *The Drugless Practitioners Act, 1925* is continued, and shall be composed of five persons appointed by the Lieutenant Governor in Council. Board of Regents  
1925, c. 49
- (2) Every member of the Board shall hold office for a period of two years, but any member is eligible for reappointment at the expiration of his term of office. Term of office
- (3) Every vacancy on the Board caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member. Vacancies
- (4) The Lieutenant Governor in Council shall designate from time to time one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of the Board. R.S.O. 1960, c. 114, s. 2. Officers
- 3.—**(1) The Lieutenant Governor in Council may appoint a board of directors for one or more classifications of drugless practitioners to be composed of not fewer than three and not more than five members and to be known as “The Board of Directors of (inserting the classification or classifications)”. Boards of directors
- (2) The members of a board of directors shall hold office for a period of two years, but any member is eligible for reappointment at the expiration of his term of office. Term of office
- (3) Every vacancy on a board of directors caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member. Vacancies



Officers

(4) The Lieutenant Governor in Council may designate one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of a board of directors. R.S.O. 1960, c. 114, s. 3.

Regulations

**4.** The Lieutenant Governor in Council may make regulations classifying persons admitted to practise under this Act and for prescribing the systems of treatment that may be followed by drugless practitioners of different classes. R.S.O. 1960, c. 114, s. 4.

Board of Regents replaced

**5.—(1)** When a board of directors has been appointed, the Board of Regents shall cease to act with respect to the classification or classifications of drugless practitioners for which the board of directors is appointed, and the provisions of this Act with respect to the Board of Regents apply *mutatis mutandis* to the board of directors so appointed.

Powers of boards of directors

(2) A board of directors may exercise with respect to the classification or classifications of drugless practitioners for which it is appointed all the powers that the Board of Regents would have, if the board of directors had not been appointed. R.S.O. 1960, c. 114, s. 5.

Regulations

**6.** The Board, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) for the examination and admission of drugless practitioners to practise in Ontario and for the registration of persons so admitted and prescribing the fees to be paid on examination and registration;
- (b) prescribing the qualifications of persons so to be admitted and the proofs to be furnished as to education, good character and experience;
- (c) for maintaining a register of persons admitted to practise and providing for the annual renewal of registration and prescribing the fee therefor;
- (d) prescribing the discipline and control of registered drugless practitioners, including the prohibition or control of advertising by or on behalf of such persons;
- (e) for classifying persons admitted to practise under this Act and for prescribing the systems of treatment that may be followed by drugless practitioners of different classes;
- (f) for designating the manner in which a person registered under this Act may describe his qualification or occupation and prohibiting the use of a title, affix or prefix that in the opinion of the Board is calculated to mislead the public as to the qualification of any such person and for allowing the use of any affix or prefix not forbidden by

*The Medical Act* that in the opinion of the Board will correctly describe the qualification or occupation of such person; R.S.O. 1970, c. 268

- (g) for the investigation of any complaint that a registered drugless practitioner has been guilty of misconduct or displayed such ignorance or incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (h) for the cancellation or suspension of the registration of any person found by the Board to be guilty of misconduct or to have been ignorant of incompetent;
- (i) providing for the employment by the Board of such persons and services as may be required and for the payment of such persons and for such services;
- (j) providing for the payment of a per diem allowance and an allowance for travelling and living expenses to members of the Board while engaged on business of the Board;
- (k) providing for the investment of the surplus revenue of the Board;
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 114, s. 6; 1961-62, c. 36, s. 1.

**7.** Nothing in this Act or the regulations authorizes a person, not being so expressly authorized under a general or special Act of the Legislature, to prescribe or administer drugs for use internally or externally or to use or direct or prescribe the use of anaesthetics for any purpose whatsoever or to practise surgery or midwifery. Act does not authorize practice of medicine  
R.S.O. 1960, c. 114, s. 7.

**8.** Every person while registered as a drugless practitioner under this Act or while his registration has been cancelled or is under suspension, who practises or holds himself out as practising as a drugless practitioner within the meaning of this Act, or advertises or uses or affixes any prefix to his name signifying that he is qualified to practise as a drugless practitioner within the meaning of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 and on summary conviction for a subsequent offence within a period of two years after the first conviction shall be imprisoned for a term of not more than three months. R.S.O. 1960, c. 114, s. 8, *amended*. Penalty for un-authorized practice

**9.—(1)** In all cases where proof of registration under this Act is required, the production of a printed or other copy of the register, certified under the hand of the secretary-treasurer of the Proof of registration

Board, is sufficient evidence of all persons who are registered practitioners in lieu of the production of the original register, and any certificate upon such printed or other copy of the register purporting to be signed by a person in his capacity as secretary-treasurer of the Board under this Act is *prima facie* evidence that such person is the secretary-treasurer without any proof of his signature or of his being in fact the secretary-treasurer.

Evidence  
of non-  
registration

(2) The absence of the name of a person from such copy is *prima facie* evidence that such person is not registered under this Act.

Omission of  
name from  
copy

(3) In the case of a person whose name does not appear in such copy, a certified copy under the hand of the secretary-treasurer of the entry of the name of such person on the register is evidence that such person is registered under this Act. R.S.O. 1960, c. 114, s. 9.

Saving

**10.** Nothing in this Act applies to or affects,

- (a) the practice of any profession or calling by any person practising it under any general or special Act of the Legislature;
- (b) any nurse acting in the absence of, or under the prescription or direction of, a legally qualified medical practitioner;
- (c) the furnishing of first aid or temporary assistance in cases of emergency;
- (d) persons treating human ailments by prayer or spiritual means as an enjoyment or exercise of religious freedom. R.S.O. 1960, c. 114, s. 10.

Compliance  
with other  
statutes not  
affected  
R.S.O. 1970,  
cc. 377, 483

**11.** Nothing in this Act or the regulations shall be taken or deemed to relieve any person from complying with *The Public Health Act* or *The Vital Statistics Act* or from any legal duty to provide for the treatment of any person by a legally qualified medical practitioner. R.S.O. 1960, c. 114, s. 11.

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CHAPTER 138

The Edible Oil Products Act

1. In this Act,

Interpre-  
tation

(a) “analyst” means an analyst appointed under this Act;

(b) “dairy product” means milk, cream, butter, cheese, condensed milk, evaporated milk, milk powder, dry milk, ice cream, malted milk, sherbet, or any other product manufactured wholly or mainly from milk that contains no fat or oil other than that of milk;

(c) “edible oil product” means a food substance, other than a dairy product, of whatever origin, source or composition that is manufactured for human consumption wholly or in part from a fat or oil other than that of milk;

(d) “inspector” means an inspector appointed under this Act;

(e) “Minister” means the Minister of Agriculture and Food;

(f) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 115, s. 1; 1966, c. 49, s.1.
2. Subject to section 3, this Act applies to every edible oil product and class of edible oil product designated in the regulations. R.S.O. 1960, c. 115, s. 2.

Application  
of Act
- 3.—(1) No person shall manufacture or sell an edible oil product, other than oleomargarine, manufactured by any process by which fat or oil other than that of milk has been added to or mixed or blended with a dairy product in such manner that the resultant edible oil product is an imitation of or resembles a dairy product.

Manufacture  
and sale of  
certain  
edible oil  
products  
prohibited
- (2) Subsection 1 does not prevent the use of chocolate or cocoa or any flavouring preparation that contains fat or oil other than that of milk when used for the purpose of flavouring a dairy product so long only as such fat or oil does not exceed one-half of 1 per cent by weight of the dairy product. R.S.O. 1960, c. 115, s. 3.

Flavouring  
exempted
4. No person shall manufacture or sell by wholesale an edible oil product to which this Act applies without a licence therefor from the Minister. R.S.O. 1960, c. 115, s. 4.

Licence



Sale of  
edible oil  
products

**5.** No person shall offer for sale or sell by wholesale or retail an edible oil product to which this Act applies that does not comply with this Act and the regulations. R.S.O. 1960, c. 115, s. 5.

Inspectors  
and  
analysts

**6.**—(1) The Lieutenant Governor in Council may appoint such inspectors and analysts as are considered necessary for the administration and enforcement of this Act and the regulations.

Obstruction  
of inspector

(2) No person shall obstruct an inspector in the performance of his duties or furnish an inspector with false information. R.S.O. 1960, c. 115, s. 6.

Regulations

**7.** The Lieutenant Governor in Council may make regulations,

- (a) designating the edible oil products or classes of edible oil products to which this Act applies;
- (b) providing for the issue of licences to manufacturers and wholesalers of any edible oil product and prescribing the form, terms and conditions thereof and the fees to be paid therefor, and providing for the renewal, suspension and cancellation thereof;
- (c) prescribing the standards of quality for and the composition of any edible oil product or class of edible oil product;
- (d) providing for the detention and confiscation of any edible oil product that does not comply with this Act and the regulations;
- (e) respecting the advertising of any edible oil product or class of edible oil product;
- (f) requiring and providing for the identification by labelling or otherwise of any edible oil product or class of edible oil product sold or offered for sale;
- (g) prescribing the powers and duties of inspectors and analysts;
- (h) prescribing the records to be kept by manufacturers and wholesalers of any edible oil product;
- (i) exempting any manufacturer or wholesaler from this Act and the regulations;
- (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 115, s. 7; 1966, c. 49, s. 2.

Offence

**8.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for each offence. R.S.O. 1960, c. 115, s. 8.

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## CHAPTER 139

### The Egress from Public Buildings Act

**1.** In every church, school, hall, house or other building used for holding public meetings or as a place of public resort or amusement, every outer door and every door leading from every assembly room or school room shall be hinged so that it will open outwards freely, and every gate of an outer fence, if not so hinged, shall be kept open by proper fastenings during the time the building is used for public purposes, in order to facilitate the egress of the public in case of alarm from fire or other cause. R.S.O. 1960, c. 116, s. 1.

Doors of public buildings to open outwards

**2.** Every congregation or society possessing corporate powers, and every trustee, incumbent, churchwarden or other person holding churches, schools or buildings used for churches or schools are severally liable, as trustees for such societies, congregations or schools, to the provisions of this Act. R.S.O. 1960, c. 116, s. 2.

Liability of ecclesiastical or other bodies with corporate powers

**3.**—(1) Every person who owns, possesses or manages a church, school, hall, house or other building used for holding public meetings or as a place of public resort or amusement who contravenes any of the provisions of this Act or the regulations made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$50.

Offence

(2) If any changes necessary to comply with this Act and the regulations made under this Act are not made, the person offending is liable to a further fine of \$5 for every week succeeding that in which the information is laid. R.S.O. 1960, c. 116, s. 3 (1, 2).

Further penalty for delay

**4.** The Lieutenant Governor in Council may make regulations for the enforcement of this Act and the safety and convenience of persons assembled in buildings coming within this Act. R.S.O. 1960, c. 116, s. 4.

Regulations



## CHAPTER 140

## The Elderly Persons Centres Act

**1.** In this Act,Interpre-  
tation

- (a) “approved centre” means a centre approved under section 2;
- (b) “approved corporation” means a corporation approved under section 2;
- (c) “centre” means a social and recreational centre for elderly persons;
- (d) “corporation” means a corporation without share capital having objects of a charitable nature,
  - (i) to which Part III of *The Corporations Act* applies, R.S.O. 1970,  
c. 89
  - or
  - (ii) that is incorporated under a general or special Act of the Parliament of Canada;
- (e) “Director” means the Director appointed for the purposes of this Act;
- (f) “Minister” means the Minister of Social and Family Services;
- (g) “municipality” means a city, town, village or township and includes an area municipality within a metropolitan, regional or district municipality, but does not include a metropolitan, regional or district municipality;
- (h) “regulations” means the regulations made under this Act. 1966, c. 50, s. 1; 1970, c. 82, s. 1.

**2.—(1)** The Lieutenant Governor in Council may approve any corporation or any centre for the purposes of this Act. 1966, c. 50, s. 2. Approval of  
corporations  
and centres

**(2)** Any approval of a centre under subsection 1 may take effect on any date fixed by the Lieutenant Governor in Council that is prior to the date on which the approval is given, but in no case shall the date on which the approval takes effect precede the date of the approval given under that subsection to the corporation maintaining and operating the centre. 1970, c. 82, s. 2. Effective  
date  
of approval

**3.—(1)** The council of a municipality may by by-law approved by the Minister provide for the establishment and operation of centres. Establish-  
ment of  
centres



By-laws re  
grants

(2) The council of a municipality may pass by-laws granting aid to centres. 1970, c. 82, s. 3.

Capital  
grants to  
centres

**4.**—(1) The Lieutenant Governor in Council may direct payment to a municipality or to an approved corporation for the erection, alteration, extension, renovation or acquisition of a building or premises for use as a centre of an amount determined by the regulations but not exceeding 30 per cent of the cost thereof to the municipality or to the approved corporation, as computed in accordance with the regulations, but no payment shall be made to the approved corporation unless the council of the municipality in which the building or premises of the corporation to be used as the centre is situate, or the council of that municipality together with the councils of one or more contiguous municipalities, directs payment to the approved corporation of a sum equal to at least 20 per cent of the cost so computed or contributes to the approved corporation real or personal property approved by the Minister that is equivalent in value to at least 20 per cent of the said cost.

Maintenance  
and operat-  
ing grants

(2) There shall be paid to every municipality or approved corporation a sum computed in accordance with the regulations towards the cost of maintaining and operating its approved centre, but no payment shall be made to the approved corporation unless the council of the municipality in which the centre operated by the corporation is situate, or the council of that municipality together with the councils of one or more contiguous municipalities, directs payment to the approved corporation of a sum equal to at least the percentage prescribed by the regulations of the cost as so computed or contributes to the approved corporation personal property or services, approved by the Minister, equivalent in value to at least the prescribed percentage of the said cost. 1970, c. 82, s. 4.

Special  
grants

**5.** The Lieutenant Governor in Council may make grants in accordance with the regulations in respect of services, facilities or research, other than those provided for in this Act, for elderly persons. 1966, c. 50, s. 4.

Approval  
of plans

**6.** No grant under subsection 1 of section 4 shall be made until the Minister has approved the site and plans of the building being erected, altered, extended, renovated or acquired. 1966, c. 50, s. 5.

Approval  
of changes

**7.**—(1) No approved corporation that has been paid a grant under subsection 1 of section 4 in respect of an approved centre shall,

- (a) change its name or the name of the approved centre; or
- (b) change the site or sell or otherwise dispose of any part of or structurally alter the approved centre,

without the written approval of the Minister. 1966, c. 50, s. 6 (1).

(2) No by-law of a municipality or an approved corporation that affects an approved centre in respect of which a grant has been paid under this Act has effect until it is approved in writing by the Minister. 1970, c. 82, s. 5.

Approval of  
by-laws

**8.** Any approval given under this Act may be suspended by the Minister or revoked by the Lieutenant Governor in Council at any time. 1970, c. 82, s. 6, *part*.

Revocation  
and suspension  
of  
approvals

**9.**—(1) The Director shall exercise general supervision over the administration of this Act and the regulations and carry out such other duties as are assigned to him by this Act and the regulations.

Duties of  
Director

(2) Where the Director is absent or there is a vacancy in the office, the powers and duties of the Director shall be exercised and performed by such employee of the Department of Social and Family Services as the Minister designates.

Acting  
Director

(3) The Director, with the consent in writing of the Deputy Minister of Social and Family Services, may authorize any employee or class of employee of the Department of Social and Family Services to exercise and discharge any of the powers conferred or the duties imposed upon him under this Act and the regulations. 1970, c. 82, s. 6, *part*.

Delegation  
of power

**10.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) specifying the corporations and centres that are approved for the purposes of this Act;
- (b) governing applications for grants;
- (c) for the purpose of subsection 1 of section 4, prescribing,
  - (i) the manner of determining the amount of the grants payable thereunder, and
  - (ii) the components that may be included in and the manner of computing the cost to an approved corporation of erecting, altering, extending, renovating or acquiring buildings or premises;
- (d) prescribing the manner of computing the grants mentioned in subsection 2 of section 4;
- (e) respecting the grants mentioned in section 5;
- (f) prescribing the terms and conditions upon which grants may be made;
- (g) prescribing the method, time and manner of the payment of grants;

- (*h*) prescribing the uses to which approved centres may be put, the programs of services to be provided therein and the rules governing the operation of such centres;
- (*i*) prescribing additional duties of the Director;
- (*j*) prescribing the records that shall be kept under this Act and the returns that shall be made to the Minister;
- (*k*) prescribing forms and providing for their use;
- (*l*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 50, s. 7; 1970, c. 82, s. 7.

## Moneys

**11.** The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1966, c. 50, s. 8, *amended*.

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## CHAPTER 141

## The Elderly Persons' Housing Aid Act

**1.** The Minister of Trade and Development may grant aid to any corporation whose objects are exclusively for charitable purposes or any limited-dividend housing corporation incorporated by or on behalf of a municipality or approved by a municipality that has had a loan made to it under the *National Housing Act* (Canada) to assist it in any project for the construction and equipment of low rental housing units for elderly persons. Grant in aid authorized R.S.C. 1952, c. 188 R.S.O. 1960, c. 117, s. 1; 1968, c. 34, s. 1, *amended*.

**2.** The amount of such a grant shall be calculated at the rate of \$500 for each dwelling unit or 50 per cent of the capital cost of the project, exclusive of that part of the capital cost of the project that is financed by way of loan under the *National Housing Act* (Canada), whichever is the lesser. Amount R.S.O. 1960, c. 117, s. 2.

**3.** Grants under this Act shall be paid out of the Consolidated Revenue Fund. Source R.S.O. 1960, c. 117, s. 3.

**4.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the terms and conditions upon which and the manner in which aid may be granted under this Act;
  - (b) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 117, s. 4.
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## CHAPTER 142

## The Election Act

## INTERPRETATION

## 1. In this Act,

Interpre-  
tation

- (a) “advance poll” means a poll held under section 70;
- (b) “by-election” means an election other than a general election;
- (c) “candidate at an election” and “candidate” mean a person elected to serve in the Assembly and a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the date of the issue of the writ or after the dissolution or vacancy in consequence of which the writ has been issued;
- (d) “corrupt practice” means any act declared to be a corrupt practice by any law in force in Ontario;
- (e) “election” means an election of a member or members to serve in the Assembly; 1968-69, c. 33, s. 1, cls. (a-e).
- (f) “election court” means a court constituted under *The Controverted Elections Act* for the trial of a petition under that Act; 1968-69, c. 33, s. 1, cl. (f), *amended*. R.S.O. 1970,  
c. 84
- (g) “electoral district” means an electoral district as set out in *The Representation Act*; R.S.O. 1970,  
c. 413
- (h) “general election” means an election in respect of which election writs are issued for all electoral districts;
- (i) “official agent” means the agent appointed by a candidate under section 44;
- (j) “polling list” means the list of voters furnished to a deputy returning officer by the returning officer in accordance with this Act;
- (k) “polling subdivision” means a polling subdivision established by the returning officer under section 8;
- (l) “prescribed” means prescribed by the Lieutenant Governor in Council or by the Chief Election Officer;

(*m*) “residence”, and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:

1. The place where a person’s family resides shall be deemed to be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
2. The place where a single person occupies a room or part of a room as a regular lodger or to which he habitually returns, not having any other permanent lodging place, shall be deemed to be his residence.
3. No person shall be deemed to be ordinarily resident in quarters or premises that are generally occupied during some or all of the months of May to October only and generally remain unoccupied during some or all of the months of November to April unless,
  - a. he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or
  - b. he has no quarters in any other electoral district to which he might at will remove.
4. The place where a person, otherwise qualified as an elector, resides for the purpose of attending a post-secondary educational institution, may be deemed to be his residence for voting purposes;

(*n*) “scrutineer” means any person at least sixteen years of age who is appointed by a candidate or his official agent to represent the candidate in a polling place. 1968-69, c. 33, s. 1, *cls. (g-n)*.

Oaths,  
who to  
administer

**2.—(1)** Except where otherwise provided, an oath for the purposes of this Act may be sworn before a justice of the peace, a commissioner for taking affidavits or a notary public.

Idem

**(2)** Returning officers and election clerks may administer any oath required by this Act, and deputy returning officers and poll clerks may administer any such oath except an oath to be administered to the returning officer.

No charge  
for adminis-  
tering  
oaths

**(3)** Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously. 1968-69, c. 33, s. 2.

## PART I

## APPOINTMENTS

## CHIEF ELECTION OFFICER

**3.—**(1) The Lieutenant Governor in Council shall appoint a Chief Election Officer, and may appoint an Assistant Chief Election Officer.

Appointment of C.E.O. and A.C.E.O.

(2) The Chief Election Officer shall consult with, advise and supervise the returning officers, deputy returning officers and poll clerks in the performance of their duties, and, where necessary, shall visit in person and consult with the returning officer with a view to facilitating the preparation of the lists and the carrying out of this Act.

Powers and duties of C.E.O.

(3) In the absence or illness of the Chief Election Officer or if the office is vacant, the Assistant Chief Election Officer shall act in his place and, while so acting, possesses the like powers and shall perform the like duties as the Chief Election Officer.

Powers and duties of A.C.E.O.

(4) Where, in the opinion of the Chief Election Officer, an emergency exists, for which no provision is made, he may give such directions as he considers proper and anything done in compliance with any such direction is not open to question, but the Chief Election Officer shall immediately give notice of any such direction to any candidate whom he thinks may be affected by such direction.

In cases of emergency

(5) The Chief Election Officer may provide for such clerical and other assistance as is necessary in the performance of his duties, and the Lieutenant Governor in Council may authorize the issue of accountable warrants from time to time for payment of travelling and other expenses and for remuneration of such officers and of persons employed in the office of the Chief Election Officer.

Clerical assistance

(6) The Chief Election Officer may make regulations prescribing the forms for use under this Act. 1968-69, c. 33, s. 3.

Forms

## RETURNING OFFICERS

**4.—**(1) The Lieutenant Governor in Council shall appoint a returning officer for every electoral district.

Appointment of R.O.

(2) Every person appointed returning officer shall be a Canadian citizen or other British subject of voting age and resident in Ontario.

Qualifications of R.O.

(3) If the person appointed returning officer under subsection 1 dies, or refuses to act, or is incapacitated or is discharged in accordance with subsection 7, 8 or 9, the Lieutenant Governor in Council may appoint some other person to be returning officer.

Refusal or incapacity to act



Notification  
of appoint-  
ment

(4) The Chief Election Officer shall notify every person appointed as returning officer of his appointment, and thereupon such person shall enter upon his duties under this Act.

Clerical  
assistance

(5) Subject to the approval of the Chief Election Officer, every returning officer may provide for such clerical and other assistance as is necessary in the performance of his duties.

Oath of  
R.O.

(6) Every returning officer, immediately upon receiving notice of his appointment, shall take and subscribe the prescribed oath.

Term of  
office

(7) A returning officer who is appointed under this Act shall continue in office until he dies, or, with prior permission of the Chief Election Officer, he resigns, or unless he is removed from office under subsection 8 or 9.

Removal  
from  
office

(8) The Lieutenant Governor in Council may remove from office any returning officer who,

- (a) has attained the age of sixty-five years; or
- (b) is incapable, by reason of illness, physical or mental infirmity or otherwise, of satisfactorily performing his duties under this Act.

Idem

(9) The Chief Election Officer may remove from office any returning officer who has failed to discharge competently his duties, or any of them, under this Act.

Endorse-  
ment  
on writ

(10) Every returning officer on receiving a writ for an election shall endorse thereon the date of its receipt.

Where  
appoint-  
ment  
superseded

(11) If a writ for an election has been issued to a person in whose stead a returning officer has been appointed under subsection 3, a new writ may be issued or the new returning officer may act under the writ already issued as if it had been addressed to him, and the validity of the proceedings had or taken under the first appointment is not affected by the new appointment, but the new returning officer may appoint a new election clerk, if he thinks fit, in the place of the person, if any, appointed to such office by the person previously named returning officer. 1968-69, c. 33, s. 4.

Persons  
excluded  
from being  
returning  
officers, etc.

**5.—**(1) The following persons shall not be appointed or act as a returning officer, election clerk, deputy returning officer or poll clerk:

1. Members of the Executive Council.
2. Crown Attorneys and Clerks of the Peace.
3. Members of the Parliament of Canada or of the Assembly.
4. Judges of federal or provincial courts.

- 5. Persons who have served as members of the Assembly in the session next preceding the election or, if a by-election takes place during a session of the Assembly, persons who are serving in that session.
- 6. Persons who have at any time been found guilty of a corrupt practice.

(2) A contravention of this section does not affect the validity of the election. 1968-69, c. 33, s. 5. Validity of election not affected

ELECTION CLERKS

**6.**—(1) The returning officer, before nomination day, shall appoint in writing a person to be his election clerk, who shall continue in office only for the duration of the election for which he was appointed. Appointment of election clerk

(2) The returning officer, at any time during the election, may appoint in writing another election clerk if the one previously appointed dies or refuses or neglects or is unable to perform his duties. Death or default of election clerk

(3) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or refuses or is disqualified or unable to perform his duties and has not been replaced by another, shall act in his stead as returning officer. Duties

(4) The election clerk before entering upon his duties shall take and subscribe the prescribed oath. 1968-69, c. 33, s. 6. Oath of election clerk

PART II

PROCEEDINGS PRELIMINARY TO ELECTION

DATES FOR NOMINATION AND POLLING

**7.**—(1) When an election is to be held, the Lieutenant Governor in Council may appoint a day for nomination of candidates, which day shall be a Thursday, Nomination day and election day

- (a) not more than sixty and not less than twenty-three days after the date of the writs of election where the nomination day appointed is in the months from May to October inclusive; or
- (b) not more than sixty and not less than thirty days after the date of the writs of election where the nomination day appointed is in the months from November to April inclusive.

Polling  
day  
R.S.O. 1970,  
c. 225

(2) The day on which polling shall take place shall be the fourteenth day after nomination day unless that Thursday is a holiday, as defined by *The Interpretation Act*, or is declared to be a holiday by law and in any such case the day fixed for the poll shall be Friday of the same week.

Date to be  
same in all  
electoral  
districts

(3) In the case of a general election, the nominations shall be held on the same day for all electoral districts and the respective days for the nomination and for the polling shall be stated in the proclamation for the election.

Writs to  
bear same  
date

(4) The writs for a general election shall be dated on the same day.

Writs to  
state  
nomination  
and polling  
days

(5) A writ of election shall state the respective days for the nomination and for the polling and is returnable forthwith after the execution thereof. 1968-69, c. 33, s. 7.

#### POLLING SUBDIVISIONS

Polling  
subdivisions

**8.** The returning officer shall divide his electoral district into polling subdivisions and shall, so far as is practicable, adopt the municipal polling subdivisions. 1968-69, c. 33, s. 8.

#### QUALIFICATION OF VOTERS

Who may  
vote

**9.—(1)** In any electoral district in which an election to the Assembly is held, every person who, at the time of voting,

- (a) has attained twenty-one years of age;
- (b) is a Canadian citizen or other British subject;
- (c) is not disqualified under this Act or otherwise prohibited by law from voting;
- (d) has resided in Ontario for the twelve months next preceding the day of polling; and
- (e) resides in the electoral district,

is qualified to vote at such election.

Evidence of  
citizenship

(2) For the purpose of this section, a statutory declaration by a person claiming to be a Canadian citizen or other British subject is *prima facie* evidence of the facts declared to. 1968-69, c. 33, s. 9.

Disqualifi-  
cation of  
certain  
officers

**10.** No returning officer or election clerk is entitled to vote, but this provision does not affect the duty of the returning officer to give a casting vote. 1968-69, c. 33, s. 10.

Disqualifi-  
cation of  
convicts,  
mentally ill  
persons, etc.

**11.** Persons who are prisoners in penal or reform institutions, or who are patients in mental hospitals, or who have been transferred from mental hospitals to homes for special care as mentally incompetent are disqualified from voting. 1968-69, c. 33, s. 11.

## ENUMERATION

**12.** Every returning officer, forthwith after receipt of a writ of election, shall appoint in writing, for each polling subdivision in the electoral district, two persons of voting age to be enumerators of the voters in such subdivision and to prepare a list thereof, and shall require each of such persons to take the prescribed oath. 1968-69, c. 33, s. 12. Enumerators

**13.** No candidate shall be an enumerator. 1968-69, c. 33, s. 13. Candidates

**14.** Each enumerator shall exercise the utmost care in the preparation of the list of voters, and the two enumerators appointed for each polling subdivision shall, in relation to each process in the preparation of the list of voters, act jointly and not individually, and, in case of any disagreement, they shall report the matter to the returning officer and in all respects are bound by his decision. 1968-69, c. 33, s. 14. Enumerators to act jointly

**15.** The returning officer shall, as far as possible, select and appoint the two enumerators for each polling subdivision so that they represent two different political interests, as provided in section 16. 1968-69, c. 33, s. 15. Selection of enumerator

**16.—**(1) Forthwith after the issue of the writ for an election, Nomination of enumerators

- (a) the person who apparently will be the candidate at the election of the political interest represented by the government of the day; and
- (b) the person who apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be,

shall furnish the returning officer with lists of nominations for appointment as enumerators, and such lists may be revised from time to time up to forty-eight hours before the enumeration is to begin.

(2) If forty-eight hours before the enumeration is to begin the returning officer has received insufficient nominations to provide two enumerators representing two different political interests for each polling subdivision, he shall make such additional appointments as he considers necessary to enumerate the electoral district. 1968-69, c. 33, s. 16. Idem

**17.—**(1) The returning officer shall supply each pair of enumerators with, Enumerators' equipment

- (a) enumerators' record forms;
- (b) forms for lists of voters; and



(c) notices of inability to obtain information.

Preparation  
of list

(2) The enumerators shall forthwith upon their appointment, by means of,

(a) a joint house-to-house canvass; and

(b) such other sources as may be available to them,

prepare a list of voters under headings of names of streets where possible and in the order of street numbers in subdivisions in which street numbering is in effect, and in alphabetical order in all other subdivisions, of all persons in the polling subdivisions who are qualified to vote at the election.

Enumerators'  
record

(3) The name and address of every person entitled to be entered on the list of voters shall, at the time of visiting the dwelling place of such person, be entered on an enumerators' record which shall be signed by both enumerators, and a duplicate thereof shall be detached from the book and left at such dwelling place.

House-to-  
house  
canvass

(4) In making the house-to-house canvass, the enumerators shall visit every dwelling place in the polling subdivision,

(a) at least once between 9 a.m. and 7 p.m.; and

(b) unless they have ascertained from an occupant of each such dwelling place that no person residing therein remains to be entered on the list, at least once between 7 p.m. and 10 p.m.,

and, where, upon making the last of such visits, the enumerators are unable to secure all the information necessary, they shall leave at such dwelling place a notice of inability to obtain information.

Enumerators  
to have  
free access

(5) The enumerators shall at all reasonable times and upon producing proper identification be given free access for the purposes of enumeration to the entrance door to each dwelling unit in any building having more than one dwelling unit.

Obstruction,  
etc., of  
enumerators

(6) No person shall wilfully obstruct or interfere with an enumerator in the performance of any of his duties or in the exercise of his rights under this Act. 1968-69, c. 33, s. 17.

Verification  
and  
disposition  
of list by  
enumerators

**18.—**(1) The enumerators, immediately after the completion of the list of voters and not later than four days from the date of their appointment, shall,

(a) verify the list by prescribed oath;

(b) deliver it to the returning officer together with the book of enumerators' record forms used in the preparation of the list; and

(c) prepare three legibly typewritten copies of such list so verified, one for delivery by the returning officer to the

printer, one to be posted up in the office of the returning officer, and one to be posted by the enumerator in a conspicuous place in the polling subdivision for which the list was prepared.

(2) The returning officer shall furnish each candidate as soon as possible with one copy of the list of voters. Copy of list to candidates

(3) The returning officer, forthwith upon receipt of the list of voters from the enumerators, shall cause it to be printed and shall furnish each candidate or his official agent with twelve printed copies of the list of voters for each polling subdivision. 1968-69, c. 33, s. 18. Printing of preliminary list

**19.** Every enumerator who wilfully neglects, omits or refuses to perform any of his duties under this Act forfeits his right to payment for any services already rendered. 1968-69, c. 33, s. 19. Enumerator refusing to act

**20.** The returning officer may at any time replace any enumerator appointed by him by appointing another enumerator to act in his place and stead and, upon receiving notice in writing from the returning officer of his replacement, the enumerator so replaced shall forthwith deliver to the returning officer his credentials and all papers and materials supplied to him. 1968-69, c. 33, s. 20. Enumerator replaced

#### PROCLAMATION

**21.**—(1) The day following completion of the enumeration, the returning officer shall by proclamation, declare, Proclamation by R.O.

- (a) the place and time fixed for the nomination of candidates;
- (b) the hours and days of the week during which he will be in his office to revise the list of voters, as directed by the Chief Election Officer;
- (c) the day fixed for holding the poll for taking the votes of the voters in case a poll is granted; and
- (d) the time and place fixed for adding up the number of votes given to each candidate.

(2) The returning officer shall issue the proclamation to be posted up in adequate numbers and in conspicuous places on public or private property throughout the electoral district and to be published in newspapers having a general circulation in the electoral district. 1968-69, c. 33, s. 21. Posting of proclamation

#### RE-ENUMERATION

**22.**—(1) Any voter whose name is omitted from the list of voters as prepared by the enumerators, or any person who has knowledge of the fact that the name or names of any other voter Re-enumeration

or voters has or have been so omitted, may so inform the returning officer in writing stating the names and addresses of the voters so omitted.

Idem

(2) The returning officer, before the preparation of the polling lists, shall cause an enumeration to be made of all voters of whom such notice has been given, and the enumerators shall visit the addresses and enumerate such voters and any other voters at those addresses whose names have been omitted from the list of voters.

Enumerators  
for re-  
enumeration

(3) The returning officer shall appoint enumerators for the purposes of subsection 2 from among those who have already acted as such for the pending election or, if necessary, shall appoint others in the manner provided by sections 15 and 16. 1968-69, c. 33, s. 22.

#### REVISION

Revision

**23.** The returning officer shall permit to be present in his office during the hours of revision of the list of voters a representative of each recognized political interest in the electoral district but no such representative, except with the permission of the returning officer, has any right to take part or intervene in the proceedings. 1968-69, c. 33, s. 23.

Who may  
apply to be  
registered  
or have  
correction  
made

**24.—(1)** A person resident in any polling subdivision whose name has not been included or has been incorrectly included by the enumerator in the list of voters for such subdivision may apply to the returning officer to have his name included in the list or to cause the entry in the list relating to him to be corrected.

Application  
to be  
entered on  
list to be  
signed

(2) Every person so applying shall sign an application in which all the information shall be sufficiently filled in either by the applicant personally or by the returning officer at the applicant's request, and before entering the name of the person in the list of voters or before correcting the list, as the case may require, the returning officer shall satisfy himself that the applicant understands the effect of the statements in the application and that he is entitled to have his name included on the list or to have the list corrected pursuant to his request.

Absence  
through  
sickness, etc.,  
relative or  
employer  
may appear

(3) If a person who claims to be entitled to have his name included in the list of voters or to have the entry relating to him therein corrected is unable to attend in person by reason of sickness or disability or unavoidable absence from the electoral district, a relative of such person by blood or marriage or his employer may appear before the returning officer and complete the application to have such person's name included in the list of voters or to have the list corrected, as the case may be.

(4) If the relative by blood or marriage or the employer so appearing substantiates, Evidence to be produced by relative or employer

- (a) the cause for the non-appearance of the person immediately concerned to be as set out in subsection 3;
- (b) the existence of a relationship by blood or marriage or the relationship of employer and employee; and
- (c) the facts relevant to the qualification, name, address or identity of the person immediately concerned so far as such facts are requisite to cause the name of the person to be included in the list of voters or to cause the list to be corrected, as the case may be,

the returning officer may act upon the application as if the person immediately concerned had appeared in person before him.

(5) When the language of the applicant is not understood by the returning officer, an interpreter may be sworn and may act, but in the event of inability to secure an interpreter, the application shall, for the time being, be refused. 1968-69, c. 33, s. 24. Interpreter where necessary

**25.** If it appears to the returning officer that the applicant understands the effect of the statements in the application and that the applicant's name should be included in the list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application. 1968-69, c. 33, s. 25. Returning officer to enter name when satisfied applicant is qualified

**26.** If, in the opinion of the returning officer, the statements made by the applicant in his application do not show that the applicant is entitled to have his name included in the list or to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. 1968-69, c. 33, s. 26. Procedure where application refused

**27.—(1)** Within seven days after the list of voters is posted up by the enumerators, any voter may file with the returning officer a complaint, on the prescribed form, that there has been included in the list of voters the name or names of persons who should not be entered therein. Complaint for wrongful entry on list

(2) The returning officer upon receipt of the complaint shall forthwith cause to be sent by registered mail to the person objected to at the address mentioned in the list and to such other address, if any, as may be mentioned in the complaint, a notice requiring such person to appear in person or by his representative before him on a day to be named in the notice. Notice to persons objected to

(3) There shall be sent with the notice a copy of the complaint of the voter making the complaint. Copy of complaint



Hearing of  
complaint

(4) On the day of hearing named in the notice, the person filing the complaint shall attend before the returning officer and establish to the satisfaction of the returning officer the validity of such complaint and the returning officer, after receiving an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the complaint was made, may make such order as he considers just under the circumstances. 1968-69, c. 33, s. 27.

Name not to  
be struck off  
without  
notice

**28.** The name of a person shall not be removed from the list unless the returning officer is satisfied on oath that due notice of complaint has been given to the person or that the person could not be found and the registered notice could not be delivered. 1968-69, c. 33, s. 28.

Change of  
residence,  
removal  
from one  
electoral  
district to  
another

**29.**—(1) A person who was a resident in, and is entered on the list of voters prepared for a polling subdivision in an electoral district or who would have been entitled to be so entered had he remained a resident in such electoral district and who has moved from such electoral district and has become a resident of another electoral district is entitled to be entered on the list of voters in the last mentioned electoral district by the returning officer upon filing with the returning officer an affidavit in the prescribed form and producing such other evidence that he was so entered or entitled to be so entered as the returning officer considers necessary.

Certificate

(2) The returning officer shall give a certificate in the prescribed form to every person entered on the list under subsection 1.

Entry after  
name of  
person so  
added

(3) The returning officer shall write “entered under *The Election Act*, section 29” after the name of every person entered on the list under subsection 1.

Production  
of certificate  
at poll

(4) A person whose name is entered on the list under this section is not entitled to vote unless at the time he requests a ballot he produces to the deputy returning officer the certificate mentioned in subsection 2. 1968-69, c. 33, s. 29.

Evidence  
required

**30.** The returning officer shall not remove any name from the list or make any other changes therein except upon evidence under oath. 1968-69, c. 33, s. 30.

Returning  
officer's  
decision  
final

**31.** The decision of the returning officer with regard to the right of a person to vote or to the right to enter on or strike from the lists the name of a person as a voter is final. 1968-69, c. 33, s. 31.

Statement  
of changes  
and  
additions to  
candidates

**32.** A statement of changes and additions shall be prepared and certified in at least seven clear copies and the returning officer shall forthwith send one copy to each candidate or his official agent. 1968-69, c. 33, s. 32.

**33.**—(1) The returning officer shall make the appropriate changes in the verified list of voters in accordance with the statement of changes and additions and shall certify the revised list, and shall attach to the revised list a certified copy of the statement of changes and additions.

Lists so revised to be lists for the election

(2) The returning officer shall prepare the polling list for each polling subdivision by attaching to a certified copy of the revised list a certified copy of the statement of changes and additions, but, if any material difference between its contents and the contents of the list as finally revised is discovered, the returning officer shall furnish the deputy returning officer and each candidate with a certificate of the error, and the polling list shall for all purposes be taken to have been amended in accordance with the certificate. 1968-69, c. 33, s. 33.

Lists with statements to be official lists

#### IRREGULARITIES

**34.** An irregularity in the preparation or revision of any list of voters is not a ground for questioning the validity of an election. 1968-69, c. 33, s. 34.

Irregularities not to affect result of election

#### PROXIES

**35.**—(1) Any qualified voter who is entered on the list of voters for a polling subdivision and who is,

Who may vote by proxy

- (a) a member of the regular forces of the Canadian Forces or a member of the reserve forces of the Canadian Forces when on active service as defined by the *National Defence Act*; or
- (b) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of his being engaged for hire or reward in the business of transportation by railway, air, water, or motor vehicle; or
- (c) a person certified by a legally qualified medical practitioner, by certificate filed with the returning officer, to be physically incapable of attending a polling place,

R.S.C. 1952, c. 184

may vote by proxy in that polling subdivision.

(2) Any person who is entitled to vote by proxy under this section may appoint in writing a proxy who shall be the wife or husband or a parent, brother, sister or child of such person and an elector entitled to vote in the electoral district in which the person appointing the proxy is qualified to vote.

Appointment of proxy

(3) The appointment of a proxy shall name the person authorized to vote at an election for which a writ has been issued for the electoral district, and no appointment of a proxy is valid unless it is made after the date of the issue of the writ of election or remains in force after polling day.

Term of appointment

Application  
of proxy to  
be entered  
on list

(4) A person who has been appointed a voting proxy may apply to the returning officer to be entered upon the list for the polling subdivision in which the person appointing the proxy is entitled to vote.

Evidence to  
be taken by  
returning  
officer

(5) The returning officer shall take evidence on oath as to the right of the person appointing the proxy to vote in the subdivision upon the list for which his name is entered and as to the qualifications of the voting proxy, and, if he finds that the person appointing the proxy is duly qualified and that the voting proxy is qualified to act for the person appointing the proxy, he shall give a prescribed certificate across the face of the appointment of the voting proxy to that effect and shall cause the name of the voting proxy to be entered on the polling list after the name of the person appointing the proxy.

Not more  
than one  
proxy

(6) Not more than one person shall be appointed a voting proxy on behalf of a person appointing the proxy at any election.

Oath on  
voting

(7) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the returning officer thereon as provided in subsection 5 and takes the prescribed oath.

Record of  
voting by  
proxy

(8) The deputy returning officer shall record in the poll book the fact that the person appointing the proxy voted by proxy and the name of the proxy, and shall file the proxy and certificate with the election papers and return them to the returning officer in the envelope provided for that purpose.

Proxy may  
vote in own  
right

(9) A person who has been appointed as a voting proxy is entitled to vote in his own right in the electoral district notwithstanding that he has voted as a proxy. 1968-69, c. 33, s. 35.

### PART III

#### CANDIDATES

##### QUALIFICATION

Who may  
be candidate

#### **36.** Every person who,

- (a) is of voting age;
- (b) is a Canadian citizen or other British subject;
- (c) has resided in Ontario for the twelve months next preceding the day of polling; and
- (d) is not disqualified by *The Legislative Assembly Act* or by any other Act,

R.S.O. 1970,  
c. 240

is qualified to be a candidate. 1968-69, c. 33, s. 36.

**37.**—(1) No person who has been engaged as a returning officer in the preparation of the lists of voters to be used at an election is eligible as a candidate at the election. Who may not be candidate

(2) No person who has been found guilty within eight years of an election of a corrupt practice or of an offence relating to an election is eligible to be a candidate at the election. 1968-69, c. 33, s. 37. Idem

#### NOMINATION

**38.** The place for the nomination of candidates shall be the court house, municipal hall or some other building in the most central or the most convenient place for the majority of the voters of the electoral district, and the time appointed for the nomination of candidates shall be from 1 p.m. until 2 p.m. of the day fixed for that purpose. 1968-69, c. 33, s. 38. Place and time of nomination

**39.**—(1) The returning officer, at the time and place fixed for the nominations, shall make or cause to be made, in the presence of voters there assembled, a pronouncement in the prescribed form, and shall read or cause to be read publicly the writ of election, and he shall then call for nominations or further nominations. Proceedings on nomination day

(2) The nomination shall be by writing signed by at least 100 duly qualified electors of the electoral district and stating the name, residence and occupation or description of the person proposed in such manner as will identify him sufficiently, and a person shall be deemed to be a duly qualified elector if he is qualified to be entered on the list of voters as entitled to vote at the election. Nominations to be in writing

(3) Each candidate shall be nominated by a separate nomination paper, and a duly qualified elector may sign the nomination papers of different candidates. Separate nomination for each candidate

(4) The nomination paper shall be filed with the returning officer at any time during the ten days immediately preceding nomination day or at any time up to the close of nominations on nomination day. When to be filed

(5) The nomination paper shall be accompanied by the consent in writing of the person therein nominated, except where such person is absent from Ontario, in which case such absence shall be stated in the nomination paper. Consent of candidate

(6) Where the nomination paper is filed with the returning officer during the ten days next preceding nomination day or not later than 11 a.m. on nomination day, the returning officer shall then and there examine the paper and, if he is satisfied of the regularity thereof, he shall so certify in writing, and his certificate is final, and the validity of the nomination is not open to question upon any ground whatsoever. Certificate of R.O. as to regularity



- Nomination paper (7) Where the nomination paper is filed with the returning officer after 11 a.m. on nomination day and before the time fixed for the close of nominations,
- acceptance (a) the returning officer shall accept the nomination paper and announce the name of the candidate;
- rejection (b) if, on examination of the nomination paper, it appears to the returning officer that the nomination is invalid for any reason, he shall communicate the facts to the Chief Election Officer and shall not reject the nomination unless the Chief Election Officer authorizes the rejection not later than 2 p.m. on the day next following nomination day, in which case the returning officer shall give notice of the rejection immediately by registered mail to the rejected candidate and all other candidates.
- Candidate or agent need not attend (8) In no case is it necessary for a candidate or his official agent to be present at the nomination meeting. 1968-69, c. 33, s. 39.
- Grant of poll **40.**—(1) If more than one candidate is nominated, the returning officer shall grant a poll for taking the votes and, if he declares a candidate to be elected, the election is void.
- Notice of grant of poll (2) When a poll is granted, the returning officer shall cause the prescribed notice thereof to be printed, declaring the polling places fixed by him and the territorial limits to which they respectively apply, and he shall cause the notice to be posted up in the electoral district at least five days before polling day in the same manner as is provided for the posting up of the proclamation. 1968-69, c. 33, s. 40.
- Election by acclamation **41.** If only one candidate is nominated or if by the withdrawal of persons nominated there remains only one candidate, the returning officer, at the expiration of the time in which nominations may be received, shall close the election and openly proclaim such candidate to be duly elected. 1968-69, c. 33, s. 41.
- Non-liability of person nominated without consent **42.** Nothing in this Act imposes any liability upon a person nominated as a candidate or declared to be a candidate by others without his consent unless he has afterwards given his assent to the nomination or declaration or has been elected. 1968-69, c. 33, s. 42.
- Official agents announced **43.** The returning officer shall announce at the place and on the day of nomination, the names and addresses of the official agents of the candidates and, on or immediately after the day of nomination, shall publish such names and addresses in a newspaper published or circulated within the electoral district. 1968-69, c. 33, s. 43.

OFFICIAL AGENT

**44.**—(1) Every candidate shall appoint an official agent whose name and address shall be declared in writing to the returning officer on or before the nomination day.

Appoint-  
ment of  
official  
agent

(2) In the event of the death or incapacity of an official agent, the candidate shall forthwith appoint another official agent in his place and give notice to the returning officer of the name and address of the person appointed, which shall be published forthwith by the returning officer in the manner provided by section 43. 1968-69, c. 33, s. 44.

On death or  
incapacity  
of an agent,  
appoint-  
ment of  
another

**45.** No person shall act as an official agent for a candidate at an election who,

Persons  
disqualified  
from acting  
as agents

- (a) is disqualified from voting under section 11; or
- (b) within eight years before the election has been found guilty of a corrupt practice or an offence relating to an election. 1968-69, c. 33, s. 45.

SCRUTINEER

**46.** A candidate may undertake any of the duties that his scrutineer might have undertaken if appointed, or may assist his scrutineer in the performance of such duties, and may be present at any place at which his scrutineer may attend in pursuance of this Act. 1968-69, c. 33, s. 46.

Right of  
candidates  
to undertake  
duties of  
scrutineers

**47.** Where expressions are used in this Act that require or authorize any act to be done in the presence of the scrutineers of the candidates, the non-attendance of any scrutineer does not invalidate the act. 1968-69, c. 33, s. 47.

Non-  
attendance  
of scrutineers

WITHDRAWAL OF CANDIDATE

**48.**—(1) A candidate may withdraw at any time after his nomination and before the opening of the poll by delivering to the returning officer the prescribed declaration to that effect, signed by himself in the presence of a subscribing witness, and any votes cast for a candidate who has so withdrawn are void, and, if after the withdrawal there remains but one candidate, the returning officer shall return as duly elected the candidate so remaining.

Withdrawal  
of candidate  
after  
nomination

(2) In the case of a candidate withdrawing where there are more than two candidates, the returning officer if possible, shall cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted up in a conspicuous place in every polling place in the electoral district. 1968-69, c. 33, s. 48.

Idem

## DEATH OF CANDIDATE

Death of  
candidate

**49.** If a candidate dies after being nominated and before the close of the poll, the Chief Election Officer shall fix new days for the nomination of candidates and for polling, and the nomination day shall be the nearest day practicable. 1968-69, c. 33, s. 49.

## PART IV

## PREPARATION FOR THE POLL

## BALLOTS

Ballot paper  
used

**50.**—(1) The paper used for printing the ballots shall be as approved by the Chief Election Officer.

Paper to  
show secret  
marking

(2) The paper used shall contain a secret thread or other mark so placed as to run through each ballot.

Security  
to be  
furnished  
by manu-  
facturer

(3) The manufacturer of the paper shall furnish security in such amount as is fixed by the Lieutenant Governor in Council that none of the paper manufactured for use in printing the ballots will be supplied by him to any person other than the Queen's Printer and Publisher, and, upon the delivery of the paper, the number of sheets shall be counted by the Queen's Printer and Publisher and a receipt therefor in writing signed by the Queen's Printer and Publisher shall be given to the manufacturer.

Queen's  
Printer  
and Publisher  
to furnish  
paper to  
C.E.O.

(4) The Queen's Printer and Publisher shall supply the Chief Election Officer with the paper required for the printing of the ballots from time to time as is required, and the Queen's Printer and Publisher and the Chief Election Officer shall check the number of sheets of ballot paper so supplied and the Chief Election Officer shall give to the Queen's Printer and Publisher a receipt in writing signed by the Chief Election Officer.

Custody of  
ballot paper

(5) The Chief Election Officer, before each general election and from time to time, shall cause a check to be made of all ballot paper supplied to him, and such paper shall be kept at all times under lock and key and no one shall have access to the place in which it is kept, except the Chief Election Officer or some person acting directly under his authority. 1968-69, c. 33, s. 50.

C.E.O. to  
see to  
printing of  
ballots

**51.**—(1) The Chief Election Officer shall cause to be printed on the approved paper a sufficient number of ballots for the poll to be conducted in each electoral district.

Printer to  
give receipt  
for ballot  
paper

(2) The printer shall count the sheets of ballot paper delivered to him and shall give the prescribed receipt therefor to the Chief Election Officer.

(3) The names of the candidates shall be shown on the ballot in order of surnames alphabetically arranged, with given names preceding the surnames, with the surnames in bold type, and with consecutive numbers preceding each candidate's name.

Form of  
ballot

(4) A circle shall be shown on the ballot to the right of each candidate's name.

Idem

(5) The names of candidates, numbers and circles shall be white and the remainder of the face of the ballot shall be black, but, where there are two or more candidates whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address of all candidates shall be shown on the face of the ballot immediately under their names in white and in sufficient detail as to identify each candidate.

Idem

(6) No other identification such as occupation, title, honour, decoration or degree shall be included with any candidate's name on the ballot.

Idem

(7) The ballots shall be numbered consecutively on the stubs and shall be bound or stitched in books.

Numbering  
of ballots

(8) All ballots shall be of the same description and as nearly alike as possible.

Uniformity

(9) The ballots shall bear upon the back the name of the printer who printed them.

Printer's  
name

(10) The printer shall make the prescribed affidavit and deliver it to the Chief Election Officer with the ballots.

Affidavit  
of printer

(11) The Chief Election Officer shall deliver to each returning officer in one or more locked and sealed boxes, the ballots for his electoral district, and the returning officer upon receiving them shall make a count of the ballots and forward the prescribed receipt therefor to the Chief Election Officer.

Supply to  
be furnished  
to R.O. and  
receipt  
obtained

(12) The returning officer shall supply each deputy returning officer with a sufficient number of ballots to supply the voters on the polling list of his polling place or polling subdivision, and with the necessary materials for voters to mark their ballots, and when delivering them the returning officer shall certify the number of ballots delivered and shall make a record of the numbers of the ballots delivered to each deputy returning officer, and this record shall be returned to the Chief Election Officer with the other documents required to be returned to him.

Supply to  
D.R.O.

(13) The deputy returning officer shall count the ballots as soon as he receives them from the returning officer and forward the prescribed receipt therefor to the returning officer. 1968-69, c. 33, s. 51.

Receipt to  
be given by  
D.R.O.



## BALLOT BOXES

Ballot boxes  
to be  
furnished

**52.**—(1) The Chief Election Officer shall supply each returning officer with as many ballot boxes as are required for the conduct of the election.

How made

(2) Every ballot box shall be made of durable material and so constructed that ballots can be deposited therein but cannot be withdrawn without unlocking the box.

Property of  
the Crown

(3) The ballot boxes, ballots, marking instruments, books, papers and documents procured for or used at an election are the property of the Crown.

Delivery of  
ballot boxes  
to D.R.O.

(4) Where it becomes necessary to use the ballot boxes, the returning officer shall deliver one ballot box to every deputy returning officer at least two days before the polling day.

Duty of  
D.R.O. as  
to ballot  
box

(5) A deputy returning officer who has not been supplied with a ballot box within such time shall cause one to be made forthwith.

Disposition  
of ballot  
boxes

(6) After the close of the election, the returning officer shall make such disposition of the ballot boxes as is directed by the Chief Election Officer. 1968-69, c. 33, s. 52.

## POLLING PLACES

Polling  
places

**53.**—(1) Subject to subsection 4, and to section 54, the returning officer, on receiving the writ, shall provide at least one polling place for each polling subdivision in the most central or most convenient place for the voters, furnished with light and heat and such other accommodation and furniture as may be required, and, if the Chief Election Officer approves, the polling place may be provided outside the limits of the polling subdivision.

Union of  
polling  
subdivisions

(2) The returning officer may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions.

Location of  
polling  
places

(3) A polling place may be situated in a schoolhouse, hall or other public building or on private property.

Where  
polling  
places not  
to be  
R.S.O. 1970,  
c. 250

(4) The poll shall not be held in a premises licensed under *The Liquor Licence Act* or in a place of public entertainment, except as authorized by the Chief Election Officer.

Additional  
polling  
places

(5) The returning officer may provide such additional polling places in any polling subdivision as are required having regard to the extent of the subdivision, the remoteness of any number of its voters from the polling place and the number of voters that may conveniently vote at one polling place.

(6) Where there are two or more polling places in a subdivision, each polling place shall be designated by the initial letters of the surnames of the voters who are to vote in such polling place, in the following manner, thus, from A to M inclusive and from N to Z inclusive, or as may be determined by the returning officer.

Division to be according to initial letters of voters' names

(7) Every voter, the initial letter of whose surname is included within the letters of the alphabet designating a polling place, shall vote in the polling place so designated.

Where voters to vote

(8) Every voter has free access to the poll. 1968-69, c. 33, s. 53.

Access

HOSPITALS, HOMES FOR THE AGED,  
AND OTHER INSTITUTIONS

**54.**—(1) Where in an electoral district there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside, a polling place shall be provided in such institution or upon the premises, and, for the purpose of polling, the institution shall be deemed to be a polling place and every person resident in the institution who is entered on the polling list shall vote at such polling place.

Polling places in hospitals, etc.

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 84. 1968-69, c. 33, s. 54.

Incapacitated patients

VOTING COMPARTMENTS

**55.** Every polling place shall be furnished with compartments in which voters may mark their ballots without other persons being able to see how they are marked, and it is the duty of the returning officer and the deputy returning officer respectively to ensure that a sufficient number of compartments is provided at each polling place. 1968-69, c. 33, s. 55.

Compartments for voters to mark ballots

PROCEEDINGS PRELIMINARY TO THE POLL

**56.**—(1) The returning officer shall appoint in writing a deputy returning officer and a poll clerk for every polling place.

Appointment of D.R.O. and poll clerk

(2) The returning officer, as far as possible, shall select and appoint the deputy returning officer and poll clerk so that they represent two different political interests, as provided in subsection 3.

How to be selected

Nomination  
of D.R.O.  
and poll  
clerk

(3) Subject to subsection 4, the returning officer shall appoint a deputy returning officer from a list of names provided to him by the person who apparently will be the candidate at the election of the political interest represented by the Government of the day and shall appoint a poll clerk from a list of names provided to him by the person who apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be.

Insufficient  
nomination

(4) If seventy-two hours before the opening of the polls the returning officer has received an insufficient number of names to provide a deputy returning officer and a poll clerk representing two different political interests for each polling place, he shall make such additional appointments as are necessary.

Oath of  
office

(5) Every deputy returning officer and poll clerk, before acting, shall take and subscribe the prescribed oath.

Qualifica-  
tion

(6) No person shall be appointed a deputy returning officer or poll clerk who is not qualified to vote at the election.

Duties of  
poll clerk

(7) The poll clerk shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.

Death or  
absence of  
D.R.O.

(8) In case of the death, illness, absence, refusal or neglect to act, or in case from any cause the deputy returning officer becomes unable to perform his duties, until another deputy returning officer is appointed, the poll clerk shall act as deputy returning officer and perform all the duties and is subject to all the obligations of that office, without taking the oath of a deputy returning officer.

Idem

(9) The appointment and oath of the deputy returning officer shall be endorsed upon or attached to the poll book.

Supplies  
to D.R.O.

(10) The returning officer shall deliver to each deputy returning officer, at least forty-eight hours before the polling day, the polling list, a blank poll book and such other materials as are provided by the Chief Election Officer. 1968-69, c. 33, s. 56.

#### WHERE VOTERS TO VOTE

Voter to  
vote in one  
subdivision  
only

**57.** If the name of a person entitled to vote is entered on the polling list for more than one polling subdivision, he shall vote only at one polling place. 1968-69, c. 33, s. 57.

#### CERTIFICATES OF OUTSIDE VOTERS

D.R.O., poll  
clerk and  
agents may  
vote at  
polling  
places where  
they are  
employed

**58.**—(1) The returning officer, on the personal or written request of a person entitled to vote who has been appointed a deputy returning officer or poll clerk or scrutineer of any of the candidates at a polling place other than the one at which he is entitled to vote, shall give him a prescribed certificate that he is

entitled to vote at the polling place at which he is stationed during the polling day, so long as that polling place is within the electoral district in which his name appears on the polling list, and the certificate shall bear the date upon which it is signed by the returning officer.

(2) The returning officer shall not give such a certificate until he has ascertained by reference to the polling list that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant appears by the polling list to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place.

When  
certificate  
for that  
purpose may  
be given

(3) The returning officer shall not give such a certificate unless requested to do so at least forty-eight hours before polling day.

Time of  
request

(4) The certificate shall designate the polling place at which the person is to be permitted to vote.

Polling  
place to be  
designated

(5) The returning officer shall keep a list in which he shall enter before he delivers a certificate under this section,

List of  
persons  
obtaining  
or refused  
certificates

- (a) the name and residence of the person to whom he gives the certificate;
- (b) the polling place at which the person is authorized to vote under the certificate;
- (c) the polling place at which the person appears by the polling list to be entitled to vote;
- (d) whether the certificate is granted to him as deputy returning officer, poll clerk or scrutineer, and, if as scrutineer, the name of the candidate for whom he is scrutineer; and
- (e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal, and, if the person is applying as scrutineer of a candidate, the name of the candidate,

and the list shall be open to inspection by any candidate, official agent, scrutineer or voter. 1968-69, c. 33, s. 58.

**59.**—(1) A person who produces a certificate given to him under section 58, is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer, poll clerk or scrutineer during polling day.

Production  
of certificate

(2) A person who receives a certificate, whether a deputy returning officer, poll clerk, or scrutineer shall not vote until he has taken one or other of the prescribed oaths of qualification.

Oath of  
qualification



Before  
whom oath  
to be taken

(3) The oath shall be administered to a deputy returning officer by the poll clerk or, in his absence by the scrutineer of a candidate authorized to be present, and to a poll clerk or scrutineer by the deputy returning officer.

Entry on  
list of  
persons  
voting under  
authority of  
a certificate

(4) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate".

Certificate to  
be delivered  
by person  
voting

(5) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot.

Preservation

(6) The deputy returning officer shall enclose all such certificates in one envelope. 1968-69, c. 33, s. 59.

## PART V

### THE POLL

#### VOTING BY BALLOT

Voting  
to be by  
ballot

**60.** The votes shall be given by ballot. 1968-69, c. 33, s. 60.

#### PRESERVATION OF THE PEACE

Assistance  
by justices  
and  
constables

**61.** A returning officer or a deputy returning officer may require the assistance of justices of the peace, constables and other persons to aid him in maintaining peace and order at the election and may swear in as many constables as he deems necessary. 1968-69, c. 33, s. 61.

#### SECRECY OF PROCEEDINGS

Who may be  
in polling  
places

**62.** In addition to the deputy returning officer, the poll clerk, the constable or constables, the candidates and their official agents and not more than one scrutineer for each candidate at any one time shall be permitted to remain in the polling place during the time the poll remains open and at the counting of the votes. 1968-69, c. 33, s. 62.

Communi-  
cating  
information  
as to how a  
voter is  
voting

**63.** No person shall communicate any information obtained at a polling place as to the candidate for whom a voter at the polling place is about to vote or has voted. 1968-69, c. 33, s. 63.

Interference  
with voters

**64.** No person shall interfere or attempt to interfere with a voter when the voter is marking his ballot, or attempt to obtain at the polling place information as to the candidate for whom a voter is about to vote or has voted. 1968-69, c. 33, s. 64.

**65.** Subject to section 84, while a voter is in a compartment for the purpose of marking his ballot, no other person shall be allowed to enter the compartment or to be in a position from which he can see for whom the voter marks his ballot. 1968-69, c. 33, s. 65.

Exclusion from balloting compartment

**66.** No person shall, directly or indirectly, induce or attempt to induce a voter to show his ballot after he has marked it so as to make known to any person the name of the candidate for whom he has voted. 1968-69, c. 33, s. 66.

Inducing voter to display ballot after marking

**67.** Subject to section 84, a voter shall not show his ballot, when marked, to any person so as to allow the name of the candidate for whom he has voted to be known. 1968-69, c. 33, s. 67.

Voter not to display marked ballot

**68.** Every returning officer and every deputy returning officer, clerk, constable, official agent, scrutineer and other person authorized to attend at a polling place, or at the counting of the votes, shall before entering on his duties take the prescribed oath of secrecy. 1968-69, c. 33, s. 68.

Oath of secrecy

**69.** A person who has voted shall not in any legal proceeding be compelled to state for whom he voted. 1968-69, c. 33, s. 69.

No one compellable to disclose his vote

ADVANCE POLLS

**70.—(1)** The Saturday and Monday immediately preceding polling day shall be days on which polls shall be held for the purpose of receiving votes of voters who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists.

Advance polls

(2) The advance polls shall be open from 11 a.m. to 8 p.m. on each of the two days.

Time of poll

(3) The returning officer shall provide as many polling places as are approved by the Chief Election Officer, fix their location and appoint a deputy returning officer and poll clerk for each polling place.

Fixing the polling places

(4) The returning officer, in fixing the location of the polling places, shall select, so far as is reasonably possible, public places or premises that afford access to wheel chairs.

Accessibility to wheel chairs

(5) Notice of the times and places at which advance polls will be opened shall be given by the returning officer, before the days for holding the poll, by posting up notices in the prescribed form at each of the polling places so appointed and in conspicuous places in the electoral district and by advertisement in a newspaper having general circulation in the electoral district.

Notice of polls

(6) Every person offering himself as a voter at the polling place shall be required by the deputy returning officer before being allowed to vote to make the prescribed declaration which shall be

Declaration of voter

kept by the deputy returning officer with the other records of the poll.

List of  
persons  
voting

(7) Forthwith after the close of the poll each day, the deputy returning officer shall make up and deliver or mail to the returning officer a list of the names of all persons who have voted showing in each case the number of the polling subdivision in which the voter is entered on the polling list, and the returning officer shall furnish every candidate with a copy of such list.

Noting  
other  
deputy  
returning  
officer's  
lists

(8) Upon receiving the list mentioned in subsection 7, the returning officer shall make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each voter whose name appears on such list and whose vote has been received at an advance poll, showing that such voter has polled his vote.

Close of  
poll

(9) On the general polling day, the deputy returning officer shall, in the presence of such candidates, official agents and scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes, count the votes and perform all other duties required of deputy returning officers by this Act. 1968-69, c. 33, s. 70.

#### TIME OF GENERAL POLL

Hours of  
polling  
generally

**71.**—(1) Subject to subsection 2, the polls at every election to the Assembly shall open at 8 a.m. and remain open until 7 p.m. of the same day.

When  
C.E.O. may  
provide for  
earlier  
opening

(2) Where the Chief Election Officer considers it desirable for the convenience of the voters that the polls should be opened in any electoral district at an earlier hour than 8 a.m., the Chief Election Officer may direct the polls to be opened in such electoral district at such time earlier than 8 a.m., but not earlier than 6 a.m., as he considers expedient. 1968-69, c. 33, s. 71.

#### PROCEDURE AT POLL

Attendance  
of D.R.O.

**72.**—(1) The deputy returning officer shall attend at the polling place at least fifteen minutes before the hour fixed for opening the poll.

Counting  
ballots  
before  
opening  
of poll

(2) During such fifteen minutes and before the opening of the poll, the scrutineers who are entitled to be present in the polling place during polling hours are entitled to have the ballots intended for use thereat counted in their presence and to inspect the ballots and all other papers, forms and documents relating to the poll. 1968-69, c. 33, s. 72.

Deputy to  
show box  
empty, and  
lock and  
seal it

**73.** The deputy returning officer, before opening the poll, shall show the ballot box to such persons as are present in the polling place so that they may see that it is empty and he shall

then lock the box and place a seal as prescribed by the Chief Election Officer upon it in such manner as to prevent its being opened without breaking the seal, and he shall then place and keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed. 1968-69, c. 33, s. 73.

**74.** Each voter upon entering the room where the poll is held shall declare his name and place of residence, which particulars shall be entered in the poll book by the poll clerk with a consecutive number being prefixed to the name, and not more than one voter shall enter a voting compartment at one time. 1968-69, c. 33, s. 74.

One voter only for each compartment

**75.** Subject to sections 59 and 78, the deputy returning officer shall not receive the vote of any person whose name is not entered on the polling list, but shall receive the vote of every person whose name is entered thereon if such person where required by a candidate or scrutineer or by the deputy returning officer, takes the oath of qualification and the oath of allegiance or whichever is required to be taken. 1968-69, c. 33, s. 75.

Persons on polling list to be allowed to vote on taking oath if required

**76.** If a deputy returning officer has reason to believe that a person offering to vote is not a qualified voter or has already voted, or is attempting to vote under a false name or designation or is personating or representing himself falsely as being upon the polling list, the deputy returning officer shall administer the prescribed oath to the voter, whether or not he has been requested to do so. 1968-69, c. 33, s. 76.

When D.R.O. to swear voter

**77.** A person who has refused to take the oath when required so to do shall not receive a ballot or vote. 1968-69, c. 33, s. 77.

Voters refusing to be sworn

**78.**—(1) In territory without municipal organization, any qualified voter whose name has been omitted in error from the polling list may apply to the deputy returning officer for the polling subdivision in which he resides to have his name added to the list, and his name shall be added to the list.

Where voter's name omitted in territory without municipal organization

- (a) if he takes the prescribed oath as to his omission from the list and his eligibility to vote; and
- (b) if he is accompanied by a voter who is resident in the same polling subdivision and whose name is on the polling list and who takes the prescribed oath that,
  - (i) he knows the person whose name has been omitted, and
  - (ii) he believes such person to be duly qualified to be entered on the polling list to vote at the election.



Name to be  
entered on  
list

(2) The deputy returning officer, after administering the prescribed oaths, shall cause the applicant's name to be added to the polling list with the word "Sworn" written thereafter.

Right to  
vote

(3) The applicant, upon taking the oath and being vouched for, is entitled to vote.

Application  
to advance  
poll

(4) This section does not apply to an advance poll. 1968-69, c. 33, s. 78.

D.R.O. to  
put initials  
on back  
of ballot

**79.** Every person who is entitled to vote shall receive from the deputy returning officer a ballot on the back of which the deputy returning officer has previously put his initials, so placed as indicated thereon that when the ballot is folded they can be seen without opening it. 1968-69, c. 33, s. 79.

Instructions  
to voter

**80.** The deputy returning officer shall, upon the request of the voter, instruct him how to mark and fold his ballot, but without inquiring or seeing for whom he intends to vote, except in the cases provided for by section 84. 1968-69, c. 33, s. 80.

Mode of  
marking,  
folding and  
depositing  
ballot

**81.** The voter on receiving his ballot shall forthwith proceed into one of the compartments of the polling place and there mark his ballot with a cross or other mark with a pen or pencil within the white circle following the name of the candidate for whom he intends to vote, and shall then fold the ballot so that the initials on the back of it can be seen without opening it, and hand it to the deputy returning officer who shall, without unfolding it, ascertain by examining his initials that it is the same ballot that he gave to the voter, and shall then, in full view of all present, including the voter, place the ballot in the ballot box. 1968-69, c. 33, s. 81.

Entries to  
be made in  
poll book as  
to voters

**82.** The poll clerk shall enter in the poll book opposite the name of each voter voting the word "Voted" as soon as the ballot has been deposited in the ballot box, and shall enter in the same book the word "Sworn" or "Affirmed" opposite the name of each voter to whom the oath has been administered, and the words "Refused to be Sworn" or "Refused to Affirm" opposite the name of each voter who has refused to take an oath when he has been required so to do. 1968-69, c. 33, s. 82.

Voters to  
leave as  
soon as  
possible

**83.** A voter shall vote without undue delay and shall leave the polling place as soon as his ballot has been placed in the ballot box. 1968-69, c. 33, s. 83.

Voter in-  
capacitated  
by blindness,  
etc.

**84.—(1)** On the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the voter making the application to take an oath of his incapacity to vote without assistance, and shall thereafter assist the voter by marking his

ballot in the manner directed by the voter in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

(2) The deputy returning officer shall either deal with a blind voter in the manner provided in subsection 1 or, at the request of any blind voter who has taken the prescribed oath and is accompanied by a friend, shall permit the friend to accompany the blind voter into the voting compartment and mark the voter's ballot for him.

Blind voter's  
ballot  
marked by  
friend

(3) Any friend who is permitted to mark the ballot of a blind voter under subsection 2 shall first be required to take an oath that he will keep secret the name of the candidate for whom the ballot of the blind voter is marked by him.

Oath of  
friend

(4) No person shall be allowed to act as the friend of more than one blind voter at any polling place other than a polling place established under section 54.

May act as  
friend once  
only

(5) The deputy returning officer shall enter in the column for remarks in the poll book opposite the voter's name the reason why the ballot was marked by him or by a friend of the voter.

Entry in  
poll book

1968-69, c. 33, s. 84.

**85.** Where a voter does not understand the English language, an interpreter may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the voter and his answers, but in the event of inability to secure an interpreter, the voter shall, for the time being, be refused a ballot. 1968-69, c. 33, s. 85.

Voters who  
cannot  
understand  
English

**86.** A person who has placed or caused to be placed his ballot in the ballot box, or has delivered it to the deputy returning officer or poll clerk for the purpose of having it placed in the ballot box shall be deemed to have voted. 1968-69, c. 33, s. 86.

When  
person  
deemed  
to have  
voted

**87.** A person who has received a ballot shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place without delivering it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer shall make an entry in the poll book in the column for remarks to the effect that the person received a ballot but took it out of the polling place or returned it declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "Declined" upon the ballot and preserve it to be returned to the returning officer. 1968-69, c. 33, s. 87.

Voter not to  
take his  
ballot from  
polling  
place, etc.

**88.** A voter who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot,

Where ballot  
accidentally  
spoiled

and the deputy returning officer shall immediately write the word "Cancelled" upon the first-mentioned ballot and preserve it to be returned to the returning officer. 1968-69, c. 33, s. 88.

Voter who  
alleges he  
has been  
personated

**89.**—(1) If a person representing himself to be a voter applies for a ballot after another person has voted as such voter, he is entitled to receive a ballot and to vote after taking the prescribed oath and otherwise establishing his identity to the satisfaction of the deputy returning officer.

Name of  
voter, etc.,  
to be entered  
in poll book

(2) The name of the voter shall be entered in the poll book and a note shall be made of his having voted on a second ballot and of the fact of the oath having been taken and of any objections made on behalf of any, and of which, of the candidates. 1968-69, c. 33, s. 89.

#### TIME FOR VOTING

Employees  
to have  
three  
consecutive  
hours for  
voting

**90.**—(1) Where, by reason of the hours of his employment, an employee who is a qualified voter will not have three consecutive hours to vote while the polls are open on a polling day at an election, his employer shall, at the convenience of the employer, allow the employee such time for voting as is necessary to provide the three consecutive hours.

Deduction  
from pay  
prohibited

(2) No employer shall make any deduction from the pay of any such employee or exact from him any penalty by reason of absence from his work during the time allowed by the employer for voting. 1968-69, c. 33, s. 90.

#### ELECTION INTERRUPTED

When  
election or  
polling  
is not  
commenced  
or is  
interrupted

**91.** If by reason of riot or other emergency a nomination meeting or the voting at a polling place is not commenced on the proper day or is interrupted after being commenced and before the lawful closing thereof, the returning officer or deputy returning officer, as the case may be, shall hold or resume the election or polling on the following day at 1 p.m. in the case of a nomination meeting, and at 8 a.m. in the case of a polling, and continue the same from day to day, if necessary, until a fair opportunity for nominating candidates has been given or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eleven hours in all. 1968-69, c. 33, s. 91.

#### EFFECT OF IRREGULARITIES

Irregularities  
not affecting  
result

**92.** No election shall be declared invalid,

- (a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;

- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the tribunal having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election. 1968-69, c. 33, s. 92.

#### PROCEEDINGS AFTER CLOSE OF POLL

**93.** Immediately after the close of the poll, the deputy returning officer shall place all the cancelled and declined ballots in separate envelopes and seal them up, and shall then count the number of voters whose names appear by the poll book to have voted and make an entry thereof on the line immediately below the name of the voter who voted last, thus: "The number of voters who voted at this election in this polling place is (stating the number)", and he shall sign his name thereto; then, in the presence and in full view of the persons entitled to be present, he shall open the ballot box and proceed to count the number of votes for each candidate, giving full opportunity to those present to examine each ballot. 1968-69, c. 33, s. 93.

Duties of  
deputy  
returning  
officer after  
close of  
poll

**94.—**(1) The deputy returning officer shall reject all ballots, herein called "rejected ballots",

What ballots  
to be  
rejected in  
counting  
votes

- (a) that have not been supplied by him; or
- (b) by which votes have been given for more than one candidate; or
- (c) on which more than one mark appears; or
- (d) upon which there is any writing or mark by which the voter can be identified,

but no word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot warrants its rejection.

(2) The deputy returning officer shall make a note of every objection taken to a ballot by a candidate or his scrutineer, and shall decide the objection subject to review on recount or on petition questioning the election or return.

Objections  
to be noted

(3) Each objection shall be numbered and a corresponding number placed on the back of the ballot and initialled by the deputy returning officer. 1968-69, c. 33, s. 94.

Numbered  
and  
initialled



How ballots  
to be  
counted

**95.**—(1) All the ballots not rejected by the deputy returning officer shall be counted and all the ballots indicating the votes given for each candidate respectively shall be put into separate envelopes and an account shall be kept of the number of ballots cast for each candidate and of the number of rejected and cancelled ballots.

Rejected  
and unused  
ballots

(2) All rejected and unused ballots shall be put into separate envelopes, which shall be endorsed so as to indicate their contents and sealed by the deputy returning officer, and any agent present may write his signature across the flap of the envelope and may also affix his seal. 1968-69, c. 33, s. 95.

Statement  
of result  
to be made  
by D.R.O.

**96.**—(1) The deputy returning officer shall make out a prescribed statement in triplicate, one part to remain attached to the poll book, the second part to be retained by him, and the third part to be enclosed by him in a special envelope supplied for the purpose, which he shall seal and deposit in the ballot box.

Signatures  
to state-  
ment

(2) The statement shall be signed forthwith by the deputy returning officer and poll clerk and such of the candidates or their scrutineers as may be present who desire to sign it.

Certificate  
of result  
of poll

(3) The deputy returning officer shall then deliver to each of the candidates or their scrutineers a certificate in the prescribed form of the number of ballots cast for each candidate and of the number of rejected ballots. 1968-69, c. 33, s. 96.

Oath of  
poll clerk

**97.** The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the prescribed oath. 1968-69, c. 33, s. 97.

Poll book,  
envelopes,  
etc., to be  
placed in  
large  
envelope in  
ballot box

**98.** The poll book, polling list, envelopes containing the ballots and all other documents that served at the election shall then be placed in the large envelope supplied for the purpose, which shall then be sealed and placed in the ballot box. 1968-69, c. 33, s. 98.

Ballot box  
to be  
delivered  
to R.O.

**99.**—(1) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it personally to the returning officer, and, if he is unable to do so owing to illness or other cause, he shall deliver it to the poll clerk or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it to the returning officer, and shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered, and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver the ballot box to the returning officer and shall take before him the prescribed oath.

(2) The candidates, their official agents or scrutineers are entitled to be present when the ballot box is delivered pursuant to subsection 1. Right of candidates, etc., to be present

(3) In lieu of proceeding under subsection 1, after locking and sealing the ballot box, the deputy returning officer may forward it by registered mail to the returning officer. Ballot box may be forwarded by registered mail

(4) As soon as the deputy returning officer has complied with subsection 1 or 3, he shall take and subscribe the prescribed oath and shall personally deliver or send it by registered mail to the returning officer. 1968-69, c. 33, s. 99. Oath of D.R.O.

## PART VI

### AFTER THE POLL

#### RECEIPT OF BALLOT BOXES BY RETURNING OFFICER AND HIS OFFICIAL COUNT

**100.** When the returning officer receives a ballot box, he shall take every precaution for its safekeeping and for preventing any person other than himself and the election clerk from having access to it, and, immediately on the receipt of a ballot box, he shall seal it with the seal as prescribed by the Chief Election Officer in such a way that it cannot be opened without the seal being broken and without effacing or covering the seals affixed to it. 1968-69, c. 33, s. 100. Duty of R.O. on receipt of boxes

**101.** The returning officer, at the place, day and hour appointed by his proclamation and after having received all the ballot boxes, shall open the ballot boxes, the large envelopes containing the poll books and the envelopes containing the statements of the poll, but shall not open any of the other sealed envelopes, and in the presence of the election clerk and of the candidates or their official agents and scrutineers, if present, shall add up the votes given for each candidate from the statements of the poll contained in the ballot boxes and shall forthwith declare to be elected the candidate having the largest number of votes. 1968-69, c. 33, s. 101. Count by R.O. and declaration of result

**102.** If, on the addition of the votes by the returning officer, an equal number of votes is found to have been cast for two or more candidates and an additional vote would entitle one of them to be declared elected, the returning officer shall give the additional or casting vote. 1968-69, c. 33, s. 102. Casting vote

PROCEEDINGS IN CASE OF NON-RETURN  
OF BALLOT BOXES

Adjourn-  
ment of  
proceedings  
where ballot  
boxes not  
delivered

**103.** If all the ballot boxes are not returned on the day fixed for adding up the votes, the returning officer shall adjourn the proceedings to a subsequent day, which shall be not more than seven days later than the day originally fixed. 1968-69, c. 33, s. 103.

Where  
default  
made by  
D.R.O. in  
returning  
documents

**104.** If a deputy returning officer has not enclosed in the ballot box the statement of the ballots counted by him as required by this Act, or if for any other cause the returning officer cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, he may adjourn to a future day and hour the adding up of the votes, and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days. 1968-69, c. 33, s. 104.

Disappear-  
ance of  
ballot boxes  
of R.O.

**105.** If any of the ballot boxes have been destroyed or lost or, for any other reason, are not forthcoming by the time fixed for adding up the votes, the returning officer shall ascertain the cause and shall procure from each deputy returning officer whose ballot box is missing, or from any other person having them, the statements and certificates of the number of votes given for each candidate, or copies of them, all to be verified by oath. 1968-69, c. 33, s. 105.

Procedure  
of R.O.  
where lists,  
statements,  
etc., cannot  
be found

**106.** If the statements and certificates, or any of them, or copies of them, cannot be procured, the returning officer shall ascertain, by such evidence as he is able to obtain, the total number of votes given for each candidate at the several polling places, and may summon any deputy returning officer, poll clerk or other person to appear before him, at a time and place to be named by him, with all necessary papers and documents, and the returning officer shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk or other person respecting the matter in question. 1968-69, c. 33, s. 106.

When  
D.R.O. has  
neglected  
to deliver  
statement  
of result

**107.** In case of an adjournment by reason of any deputy returning officer not having placed in the ballot box a statement of the ballots counted by him, the returning officer, in the meantime, shall use all reasonable efforts to ascertain the number of votes given for each candidate at the polling place of such deputy returning officer and has the powers conferred by section 106. 1968-69, c. 33, s. 107.

Special  
report by  
R.O.

**108.** The returning officer shall return the candidate having the largest number of votes, and shall specify in a report to be sent with the return the circumstances accompanying the disappear-

ance of the ballot boxes, or the want of any statement, and the mode by which he ascertained the number of votes given for each candidate. 1968-69, c. 33, s. 108.

RECOUNT OR FINAL ADDITION BY COUNTY JUDGE

**109.**—(1) In this section and in sections 110 to 121, “judge” means the judge of the county or district court, and, where there are two or more judges, the senior judge or, in the case of the illness or absence of the senior judge or where the senior judge requests him to act, a junior judge. Interpretation

(2) If, upon the application of a candidate or a voter made within four days after the day on which the returning officer added the votes for the purpose of declaring a candidate elected, it is made to appear by affidavit to the judge of the court of the county or district in which the electoral district or any part of it is situate, Where recount may be had

- (a) that a deputy returning officer has in counting the votes, improperly counted any ballot, improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate; or
- (b) that the returning officer has improperly added up the votes,

and, if the applicant deposits within that time with the clerk of the county or district court the sum of \$100 in legal tender, money order or a cheque drawn upon and accepted by a chartered bank or trust company doing business in Ontario as security for the costs in connection with the recount or final addition of the candidate appearing by the addition to be elected, the judge may appoint a time and place to recount or finally add up the votes cast at the election.

(3) Where the electoral district comprises parts of two or more counties or districts, the application shall be made to and the recount or final addition shall take place before the judge of the court of the county or district having the larger or largest population according to the last federal census. What judge to hold recount when district in two or more counties

(4) Before an application is made to the judge under subsection 2, the applicant shall give notice in writing of the application to the candidates or the other candidates, as the case may be, or their official agents, to the returning officer and to the election clerk. Notice of application

(5) A notice under subsection 4 shall be given by serving it personally on the person to whom it is to be given or by sending it by registered mail addressed to his place of residence. 1968-69, c. 33, s. 109. Idem



Notice of  
time and  
place of  
recount

**110.** At least two days notice in writing of the time and place appointed for the recount or final addition shall be given by the applicant to the candidates, the returning officer and the election clerk, and the judge may, at the time of the application or afterwards, direct that service of the notice upon the candidates, the returning officer and the election clerk may be substitutional or be made by mail or in such other manner as he considers proper. 1968-69, c. 33, s. 110.

R.O. to  
withhold  
return

**111.** After the receipt of the notice, the returning officer shall delay making his return to the Chief Election Officer until he receives a certificate from the judge of the result of the recount or final addition, and, upon receipt of the certificate, he shall make his return. 1968-69, c. 33, s. 111.

Presence  
of clerk  
of county  
or district

**112.** The judge may require the clerk of the county or district court to be present at the time and place appointed. 1968-69, c. 33, s. 112.

Summoning  
officers to  
be presented  
with  
documents

**113.**—(1) The returning officer and his election clerk shall attend at the time and place appointed with the envelopes containing the ballots or the original statements of the poll, as the case may be.

Production  
and custody  
of ballot  
papers on  
a recount

(2) The ballots and original statements shall continue in the custody of the returning officer, and he is responsible for them subject to any direction that the judge may give with respect thereto. 1968-69, c. 33, s. 113.

Who to be  
present at  
recount

**114.** The returning officer and the election clerk shall be present at the recount or final addition, and each candidate is entitled to be present and to be represented by not more than two scrutineers, and, except with the permission of the judge, no other person shall be present. 1968-69, c. 33, s. 114.

Procedure  
by judge

**115.** At the time and place appointed and in the presence of such of the persons mentioned in section 114 as are present, the judge shall make his final addition from the statements contained in the ballot boxes returned by the deputy returning officer, or recount all the votes or ballots returned by the deputy returning officers, as the case may be, and shall, in the latter case, open all the sealed envelopes containing,

- (a) the used ballots that have been counted;
- (b) the rejected ballots;
- (c) the cancelled ballots;
- (d) the declined ballots; and
- (e) the unused ballots. 1968-69, c. 33, s. 115.

**116.** The judge shall, in the case of a recount, proceed according to the rules of the counting of the ballots at the close of the poll by the deputy returning officer and shall verify or correct the statement of the poll. 1968-69, c. 33, s. 116.

Rules to govern judge in proceedings

**117.**—(1) Upon the completion of the recount, the judge shall seal up all the ballots in their separate envelopes and, upon the completion of his final addition, he shall seal up the original statements in their respective envelopes.

Sealing up ballots at close of recount

(2) If either party requests him to do so, the judge shall number on the back the disputed ballots and enclose them in a separate envelope. 1968-69, c. 33, s. 117.

Distinguishing disputed ballots

**118.**—(1) Where a ballot box used at a polling place was not available to the returning officer when he made his decision with respect to the number of votes given for a candidate or where the proper statements or papers were not found in the ballot box, the judge shall, if necessary or required, review the decision of the returning officer.

Review of decision of R.O. when ballot box or documents missing

(2) For the purpose of arriving at the facts, the judge has all the powers of the returning officer with regard to the attendance and examination of witnesses or he may act upon the evidence taken by the returning officer. 1968-69, c. 33, s. 118.

Powers of judge

**119.**—(1) The judge shall delay sending his certificate to the returning officer for two days after the completion of the recount or final addition in order to allow for an appeal as provided in section 122.

When judge to send in his certificate

(2) If no notice of appeal is given to the judge within two days after the completion of the recount or his final addition, the judge shall certify forthwith the result to the returning officer who shall then declare the candidate having the largest number of votes to be elected.

When declaration of result to be given

(3) In the case of an equality of votes, the returning officer shall give the casting vote. 1968-69, c. 33, s. 119.

Casting vote

**120.**—(1) The costs of the recount or final addition are in the discretion of the judge who may order by whom, to whom, including the returning officer and election clerk, and in what manner they shall be paid.

Costs

(2) The judge shall tax the costs and shall, as nearly as may be, follow the tariff of costs with respect to proceedings in the Supreme Court.

Taxing and allowing costs

(3) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates. 1968-69, c. 33, s. 120.

Idem

Deposits,  
disposal of

**121.** Where costs are directed to be paid by the applicant, the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and, if the deposit is insufficient, execution may issue out of the county court upon the judge's order for the balance. 1968-69, c. 33, s. 121.

APPEAL FROM DECISION ON RECOUNT OR FINAL  
ADDITION

Appeal from  
decision of  
judge

**122.**—(1) Any party may appeal from the decision of the judge who conducted the recount or final addition by giving notice in writing within two days after the completion of the recount or final addition to the opposite party and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Service of  
notice of  
appeal

(2) The notice may be served upon the opposite party personally, or upon the solicitor who acted for him upon the recount of final addition by the judge, personally or at his office, or as a judge of the Supreme Court may direct.

Ballots,  
etc., to be  
forwarded  
to Registrar  
of Supreme  
Court

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall seal up the ballots that are the subject of appeal in a separate packet and shall forward them, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited, the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer.

Allowing  
copy of  
certificate  
of judge

(4) The judge who conducted the recount or final addition shall, upon request, allow each party to make a copy of the certificate of his findings before it is forwarded to the Registrar.

Appoint-  
ment for  
hearing  
of appeal

(5) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Procedure  
on hearing  
of appeal  
certificate  
of result

(6) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify his decision to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the returning officer.

Costs of  
appeal

(7) The judge of the Supreme Court may direct by and to whom, including the returning officer and election clerk, the costs of the appeal shall be paid.

(8) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates. 1968-69, c. 33, s. 122. Idem

#### ELECTION RETURN

**123.**—(1) Immediately after the sixth day following the final addition by him of the number of votes given for each candidate, unless before that time he receives notice that he is required to attend before a judge for the purpose of a recount or final addition of the votes given at the election, and, where there has been a recount or final addition, immediately after the receipt of the certificate of the result, the returning officer shall send his return to the Chief Election Officer that the candidate having the largest number of votes has been duly elected, and shall forward to each of the candidates a duplicate copy thereof. When  
return to  
be made

(2) The returning officer shall include with his return to the Chief Election Officer a report of his proceedings, in which he shall make any observations he thinks proper as to the state of the ballot boxes or ballots as received by him. 1968-69, c. 33, s. 123. Report by  
R.O.

**124.**—(1) When the returning officer sends his return he shall send by express or registered mail to the Chief Election Officer, enclosed in a box or other covering, securely locked and sealed with the seal as prescribed by the Chief Election Officer, the writ, the list mentioned in subsection 5 of section 58, all the envelopes containing ballots in his possession, declarations of inability to read or to mark, poll books and all other documents sent to him by the deputy returning officers. R.O. to  
transmit  
to C.E.O.  
the ballots,  
etc.

(2) The returning officer shall endorse on the package a description of its contents, the date of the election to which they relate and the name of the electoral district for which the election was held and shall affix to the outside of the package a label showing distinctly the electoral district to which the contents relate and the date of the election. 1968-69, c. 33, s. 124. Endorse-  
ment  
thereon

**125.**—(1) The returning officer shall forthwith take and subscribe the prescribed affidavit after sending his return, and it shall be sent forthwith by him to the Chief Election Officer by registered mail. Oath of  
R.O. after  
transmitting  
return

(2) The returning officer shall at the same time or within ten days thereafter transmit to the Chief Election Officer in a box or other covering, secured and sealed with the seal as prescribed by the Chief Election Officer all documents, papers and supplies in his possession, all receipts for ballots, a record of all ballots supplied to him by the Chief Election Officer and a complete record of their disposal, and shall, in a separate package, return all ballots not distributed by him to the deputy returning officers and all other unused material. Return of  
election  
documents  
and  
unused  
material



Endorse-  
ment  
thereon

(3) The returning officer shall paste upon the box or other covering mentioned in subsection 2 a label "Election Documents" and on the package mentioned in subsection 2 a label "Unused Election Material", the name of the electoral district and the date of the election written or printed thereon. 1968-69, c. 33, s. 125.

Application  
to compel  
returning  
officer to  
add up  
votes, make  
return, etc.

**126.**—(1) If a returning officer wilfully delays, neglects or refuses,

- (a) to add up the votes;
- (b) to declare to be elected the candidate having the largest number of votes;
- (c) to give his casting vote where he is by-law required to do so; or
- (d) to make the return, as required by this Act, of the candidate having the largest number of votes,

and the person aggrieved or the Chief Election Officer or any voter who voted at the election applies to a judge of the Supreme Court for a mandamus commanding the returning officer to perform the duty that is shown to have been not performed, the notice of motion shall be served upon the returning officer and upon the persons who were candidates at the election.

Application  
of R.S.O.  
1970, c. 228

(2) In other respects, *The Judicature Act* and the rules of court made thereunder apply to such application.

Other rights  
and  
remedies

(3) Nothing in this section affects or impairs any other right or remedy of the person aggrieved or of the Chief Election Officer. 1968-69, c. 33, s. 126.

#### CUSTODY OF ELECTION PAPERS

Notice of  
return in  
Ontario  
Gazette

**127.** The Chief Election Officer, on receiving the return of a member elected to the Assembly, shall give notice of the receipt of the return in the next ordinary issue of *The Ontario Gazette*, the date of such receipt and the name of the candidate elected. 1968-69, c. 33, s. 127.

How long  
to be  
retained  
and when  
to be  
destroyed

**128.**—(1) The Chief Election Officer shall retain in his possession the documents transmitted to him by the returning officer under sections 124 and 125 for at least one year, and, if the election is contested, then for one year after the termination of the contestation.

How to be  
kept by  
C.E.O.

(2) The Chief Election Officer shall keep the documents relating to a general election in a room or vault separate from that in which the documents relating to by-elections are kept.

When  
documents  
not to be  
destroyed  
R.S.O. 1970,  
c. 84

(3) If notice of the presentation of a petition under *The Controverted Elections Act* is received by the Chief Election Officer or if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon

in large and distinct letters the words “NOT TO BE DESTROYED”. 1968-69, c. 33, s. 128.

INSPECTION OF DOCUMENTS AND BALLOTS

**129.** All documents forwarded by a returning officer in pursuance of this Act to the Chief Election Officer, other than ballots, shall be open to public inspection at such time and under such conditions and rules as are made by him, and he shall supply copies of or extracts from the documents to any person demanding them on payment of the prescribed fee, and in computing the number of words a figure shall be counted as a word. 1968-69, c. 33, s. 129.

Inspection of documents

**130.**—(1) No person shall be allowed to inspect any ballot in the custody of the Chief Election Officer except under an order of a judge of the Supreme Court.

Inspection to be under order of judge

(2) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of the ballot is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballots or for the purpose of a petition questioning an election or return.

When order to be granted

(3) The order may be made subject to such conditions as the judge thinks proper.

Conditions of order

(4) Subject to the order, the inspection shall take place under the immediate supervision of the Registrar of the Supreme Court, and he shall be present during the inspection, and, so long as the ballots are in the custody of the Registrar and not under inspection, they shall be kept in a secure place under lock and key. 1968-69, c. 33, s. 130,

Where inspection takes place

**131.** Where an order is made by a judge of the Supreme Court for the production by the Chief Election Officer of any document in his possession relating to an election, the production of it by him, in such manner as is directed by the order, is evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballots so produced is evidence that the contents are what they are stated to be by the endorsement. 1968-69, c. 33, s. 131.

Evidence as to documents, ballots, etc., in certain cases

**132.** Notwithstanding the provisions of this or any other Act, all documents, including used and unused ballots, relating to an election in the custody of the Chief Election Officer or of any other person may be opened, inspected and examined under such conditions and rules as are made by the Committee on Privileges and Elections of the Assembly for the purpose of inquiring into any matter referred to the Committee by order of the Assembly, and, upon any such proceeding before the Committee, any such document may be filed as an exhibit, and any person summoned to attend and give evidence before the Committee upon such

Inspection of documents under order of Privileges and Elections Committee

inquiry may be examined or cross-examined in relation thereto. 1968-69, c. 33, s. 132.

## PART VII

### OFFENCES, PENALTIES AND ENFORCEMENT

Voting  
when not  
qualified  
or more  
than once

**133.** Every person who,

- (a) not being qualified to vote, votes; or
- (b) being qualified to vote, votes more than once at an election,

is guilty of an offence and of a corrupt practice, and on summary conviction is liable to a fine of not more than \$1,000. 1968-69, c. 33, s. 133.

Offences  
for improper  
voting by  
proxy

**134.** Every person,

- (a) who, having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or
- (b) who, having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the voter who made the appointment is dead or is no longer entitled to vote,

is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000. 1968-69, c. 33, s. 134.

Wilful  
miscount  
of ballots

**135.—(1)** Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise makes up a false statement of the poll is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000.

Neglect of  
duties

**(2)** Every returning officer, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1968-69, c. 33, s. 135.

Wilful  
alteration  
of lists  
or poll  
book

**136.** Every returning officer, deputy returning officer or other person whose duty it is to deliver poll books or who has the custody of a certified list of voters or of a polling list or poll book, who wilfully makes any alteration or insertion in or omission from or in any way wilfully falsifies such list of voters, polling list or poll book is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000. 1968-69, c. 33, s. 136.

**137.** Every person who,

Offences  
relating to  
ballot  
papers

- (a) alters, defaces or destroys a ballot or the initials of the deputy returning officer thereon;
- (b) without authority, supplies a ballot to any person;
- (c) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;
- (d) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (e) takes a ballot out of the polling place;
- (f) without authority, destroys, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (g) being a deputy returning officer, knowingly puts his initials on the back of any paper purporting to be or capable of being used as a ballot at an election;
- (h) not being a person authorized by the Chief Election Officer, prints any ballot or what purports to be or is capable of being used as a ballot at an election;
- (i) being authorized by the Chief Election Officer to print the ballots for an election, prints more ballots than he is authorized to print; or
- (j) attempts to commit any offence mentioned in this section,

is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000. 1968-69, c. 33, s. 137.

**138.—**(1) Every person who wilfully destroys, injures or obliterates, or causes to be destroyed, injured or obliterated, a writ of election, return to a writ of election, poll book, list of voters, polling list, certificate or affidavit, or other document or paper made, prepared or drawn according to or for the purpose of meeting the requirements of this Act, or any of them, is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000.

Wilful  
destruction  
of documents  
relating to  
elections

(2) Every person who aids, abets, counsels or procures the commission of a contravention of subsection 1 is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000. 1968-69, c. 33, s. 138.

Counselling  
destruction  
of  
documents

**139.** Any person who, knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1968-69, c. 33, s. 139.

False  
information  
to author-  
ized persons



Penalty for  
default in  
delivering  
statement

**140.**—(1) Every official agent or candidate who makes default in delivering the statements required by Part VIII to the returning officer is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Penalty  
for false  
statement

(2) Every official agent or candidate who wilfully furnishes an untrue statement to the returning officer is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1968-69, c. 33, s. 140.

General  
offence

**141.** Every person who contravenes any of the provisions of this Act is guilty of an offence and on summary conviction, where a fine is not otherwise provided for such contravention by this Act, is liable to a fine of not more than \$1,000. 1968-69, c. 33, s. 141.

## PART VIII

### ELECTION EXPENSES AND FEES

Payments  
not to be  
made  
except  
through  
official  
agent

**142.**—(1) No contribution, payment, loan, gift, advance or deposit of money or its equivalent in excess of \$50 shall be received by or on behalf of a candidate and no payment, except with respect to the personal expenses of a candidate, and no advance, loan or deposit shall be made by or on behalf of a candidate before, during or after the election, on account of the election, otherwise than through his official agent.

Interpre-  
tation

(2) In this section “personal expenses”, which may be lawfully paid by a candidate personally, includes the following expenses:

1. Reasonable and ordinary rent for hire of halls or other places used by the candidate personally in which to address public meetings of voters, and the expenses incurred in heating, lighting and cleaning such halls or other places.
2. Reasonable and ordinary travelling and living expenses of the candidate.
3. Reasonable and ordinary travelling and living expenses of one speaker for each meeting who accompanies the candidate and travels with him for the purpose of speaking at a public meeting to be addressed by the candidate.
4. Reasonable and ordinary charges for the hire of conveyances for the use of the candidate.
5. Reasonable and ordinary charges for use by the candidate personally of not more than one conveyance on the polling day.

(3) The onus of showing that the personal expenses paid by the candidate were fair, reasonable and proper and not in excess of what is ordinarily paid for similar services and accommodation is upon the candidate.

Burden of proof

- (4) The contracting for or the receipt of the ordinary and reasonable charges,
- (a) by the owner or possessor of a hall or room in which to hold public meetings for the purposes of the election;
  - (b) by a printer for printing lists of voters, election addresses or advertisements or notices of election meetings; or
  - (c) by a regularly established livery-keeper for the hire of vehicles used in connection with and for the proper purposes of the election and not for carrying voters otherwise than by the candidate as provided by paragraph 5 of subsection 2,

Receipt of ordinary and reasonable charges when not to disqualify voter

is lawful and does not disqualify him from voting. 1968-69, c. 33, s. 142.

**143.**—(1) Every person who has any claim against a candidate for or in respect of an election shall send it, within sixty days from the day of the declaration of the result of the election, to the official agent of the candidate, otherwise he is barred of his right to recover it.

Claims on candidates

(2) In case of the death within such period of the person having the claim, his legal representative shall send it, within one month after probate or administration has been obtained, to the official agent of the candidate, otherwise the right to recover it is barred.

Case of death of person making claim

(3) In the case of the death of the official agent or of his incapacity to act and no other agent having been appointed, the claim may be sent to the candidate.

Case of death of agent

(4) No such claim shall be paid without the authority of the candidate. 1968-69, c. 33, s. 143.

Candidate must authorize payment

**144.**—(1) Notwithstanding section 143, any claim that would have been payable if sent within sixty days of the day of the declaration of the result of the election may be paid by the candidate through his official agent after that time if the claim is approved by a judge of the Supreme Court.

Payment of accounts

(2) All claims allowed by a judge shall within one week thereafter be advertised by the returning officer at the expense of the candidate in the same newspapers in which the statement of the other election expenses was published. 1968-69, c. 33, s. 144.

Advertising claims

Statement  
of election  
expenses,  
etc., to be  
sent by  
agent to  
R.O.

**145.**—(1) A detailed statement of all money exceeding \$50 or its equivalent received as an election contribution, payment, loan, gift, advance or deposit and a detailed statement of all election expenses incurred by or on behalf of a candidate, including payments in respect of his personal expenses, shall, within three months after the election or, where, by reason of the death of a creditor, no claim has been sent in within such period of three months, then within one month after the claim has been sent in, be made out and signed by the official agent who has paid them or by the candidate in case of payments made by him, and delivered, with the bills and vouchers relating thereto, to the returning officer.

Abstract  
thereof to  
be published

(2) The returning officer, within fourteen days after receiving the statements, shall publish at the expense of the candidate an abstract thereof in a newspaper published or circulated in the electoral district.

R.O. to  
preserve  
bills, etc.,  
and allow  
inspection

(3) The returning officer shall preserve all such statements and vouchers, and shall, during the six months next after they have been delivered to him, permit any voter to inspect them on payment of a fee of 25 cents. 1968-69, c. 33, s. 145.

Payment of  
expenses  
of Act

**146.**—(1) The fees and expenses to be allowed to the returning officers and other officers and persons for services performed under this Act, so far as they are payable by the Province of Ontario, are payable out of the Consolidated Revenue Fund.

Accountable  
warrants

(2) For the purpose of providing funds for the payment of such fees and expenses, the Lieutenant Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts  
and audit

(3) The sums paid out under subsection 1 shall be duly accounted for by the production of accounts and vouchers but it is not necessary that such accounts or vouchers be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the same person, unless the Lieutenant Governor in Council otherwise directs.

Audit by  
Provincial  
Auditor

(4) All accounts respecting such fees and expenses shall be audited by the Provincial Auditor. 1968-69, c. 33, s. 146.

Regulations

**147.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees and expenses to be allowed to the officers and other persons, except those in the office of the Chief Election Officer, for their services and disbursements under this Act; and
- (b) prescribing the costs that shall be paid by the Province of Ontario under sections 120 and 122. 1968-69, c. 33, s. 147.

## CHAPTER 143

## The Elevators and Lifts Act

**1.** In this Act,Interpre-  
tation

- (a) “attendant” means a person who, as the whole or a part of his normal duties,
  - (i) operates an elevator or incline lift, or
  - (ii) supervises the loading, passage or unloading of persons on an escalator or incline lift;
- (b) “chief inspector” means the chief inspector appointed for the purposes of this Act;
- (c) “contractor” means a person who carries on the business of constructing, installing, altering, repairing, maintaining, servicing or testing elevators, dumb-waiters, escalators, manlifts or incline lifts or parts thereof;
- (d) “Department” means the Department of Labour;
- (e) “dumb-waiter” means a mechanism affixed to a building or structure, equipped with a car or platform that moves in guides in a substantially vertical direction, the total compartment height of which does not exceed four feet, that is loaded or unloaded and controlled manually, that is used exclusively for lifting or lowering freight and that serves two or more floors or permanent levels of the building or structure, and includes its hoistway enclosure;
- (f) “elevator” means a mechanism, including its hoistway enclosure, affixed to a building or structure and equipped with a car or platform that,
  - (i) moves in guides, or is otherwise guided, at an angle exceeding 70 degrees from the horizontal, and
  - (ii) is used to lift or lower persons or freight in or about the building or structure,

and includes a freight platform having a vertical travel in excess of sixty inches;

- (g) “engineer” means a professional engineer as defined in *The Professional Engineers Act*;
- (h) “escalator” means a power-driven, inclined, continuous stairway or runway affixed to a building or structure that is used for lifting or lowering persons and that serves two floors or permanent levels of the building or structure, and includes its hoistway enclosure;

R.S.O. 1970,  
c. 366



- (i) "freight" means any substance, article or thing;
- (j) "incline lift" means a mechanism having a power-driven rope, belt or chain, with or without handholds or seats, for lifting or lowering persons or freight on an incline of 70 degrees or less from the horizontal, and includes a ski lift and a ski tow;
- (k) "inspector" means an inspector appointed for the purposes of this Act, and includes the chief inspector;
- (l) "insurer" means a person licensed under *The Insurance Act* to undertake public liability insurance;
- (m) "licence" means a licence granted under this Act;
- (n) "major alteration" means a major alteration as defined in the regulations;
- (o) "manlift" means a mechanism affixed to a building or structure that has a power-driven endless belt on which platforms or footholds are provided for lifting or lowering persons and that serves two or more floors or permanent levels of the building or structure, and includes its hoistway enclosure;
- (p) "maximum capacity" means the number of persons or the weight that an elevator, dumb-waiter, escalator, manlift or incline lift may carry safely as determined under the regulations;
- (q) "Minister" means the Minister of Labour;
- (r) "owner" means the person in charge of an elevator, dumb-waiter, escalator, manlift or incline lift as owner, tenant, agent or otherwise, but does not include an attendant as such;
- (s) "professional engineer" means a person who is a member of the Association of Professional Engineers of the Province of Ontario or who is licensed to practise as a professional engineer under *The Professional Engineers Act*;
- (t) "regulations" means the regulations made under this Act. R.S.O. 1960, c. 119, s. 1; 1965, c. 35, s. 1; 1970, c. 29, s. 1.

R.S.O. 1970,  
c. 224

R.S.O. 1970,  
c. 366

Where Act  
does not  
apply

## 2. This Act does not apply to,

- (a) elevators, dumb-waiters, escalators, manlifts or incline lifts in or in connection with private dwelling houses and used exclusively by the occupants thereof and their guests, unless the owner of any such mechanism requests that this Act be applied to it;
- (b) elevators and hoists within the meaning of *The Mining Act*;
- (c) feeding machines, or belt, bucket, scoop, roller or any similar type of freight conveyor;

R.S.O. 1970,  
c. 274

- (d) a lifting device that is,
  - (i) part of a conveyor system,
  - (ii) mechanically loaded and unloaded, and
  - (iii) so fenced in or guarded as to prevent persons from accidentally entering the hoistway;
- (e) freight ramps having a means of adjusting the slope of the ramp;
- (f) freight platforms having a rise of sixty inches or less;
- (g) lubrication hoists or other similar mechanisms;
- (h) piling or stacking machines used within one storey;
- (i) a construction hoist as defined in *The Construction Hoists Act*; R.S.O. 1970, c. 81
- (j) any class or sub-class of elevator, dumb-waiter, escalator, manlift or incline lift excluded by the regulations. R.S.O. 1960, c. 119, s. 2; 1965, c. 35, s. 2.

**3.—**(1) For the purpose of carrying out this Act, a chief inspector and such inspectors as are considered necessary to enforce this Act shall be appointed, and the chief inspector shall have the general supervision and direction of the other inspectors for the purpose of enforcing this Act. Inspectors, appointment 1965, c. 35, s. 3.

(2) No person shall be appointed or act as an inspector who has any direct or indirect interest in the manufacture, sale, installation or maintenance of elevators, dumb-waiters, escalators, manlifts or incline lifts. disqualification R.S.O. 1960, c. 119, s. 3 (2).

**4.** No person shall make an inspection of an elevator, dumb-waiter, escalator, manlift or incline lift who does not hold a certificate of competency under this Act. Certificate of competency R.S.O. 1960, c. 119, s. 4.

**5.** The Minister may authorize the chief inspector to employ the services of any person who holds a certificate of competency under this Act to inspect any elevator, dumb-waiter, escalator, manlift or incline lift, in which case and for such purpose only such person shall be deemed to be an inspector, and to report forthwith to him with respect thereto. Special inspections R.S.O. 1960, c. 119, s. 5.

**6.** Every elevator, dumb-waiter, escalator, manlift and incline lift shall be inspected at such intervals as may be determined by the chief inspector. Inspections 1970, c. 29, s. 2.

**7.—**(1) The chief inspector shall upon request and payment of the prescribed fee supply the insurer of any elevator, dumb-waiter, escalator, manlift or incline lift with a copy of an inspector's report thereon if the insurer has the owner's permission to receive such copy. Inspectors' reports to insurers

- Idem (2) Where an insurer files a request for future copies of inspectors' reports on a particular elevator, dumb-waiter, escalator, manlift or incline lift and the insurance thereon is subsequently cancelled, rejected or suspended, the insurer shall forthwith notify the chief inspector of such cancellation, rejection or suspension. 1965, c. 35, s. 5.
- C.S.A.  
Safety  
Code **8.** In carrying out their duties, the inspectors shall, subject to this Act and the regulations, apply such safety code or parts thereof of the Canadian Standards Association for elevators, dumb-waiters, escalators, manlifts, and incline lifts as is prescribed by the regulations. 1965, c. 35, s. 6.
- Right to  
examine  
persons  
under oath **9.** For the purpose of an inspection or an investigation under this Act, the chief inspector may, by notice in writing, require the attendance before him of any person at the time and place named in the notice and may then and there examine such person under oath regarding any matter pertaining to such inspection or investigation. R.S.O. 1960, c. 119, s. 9; 1961-62, c. 38, s. 2.
- Right to  
enter  
premises **10.** An inspector, upon production of his certificate of appointment, may enter any premises where he has reason to believe that an elevator, dumb-waiter, escalator, manlift or incline lift is being installed or operated. R.S.O. 1960, c. 119, s. 10.
- Notice to  
prepare for  
inspection **11.**—(1) An inspector may, by notice in writing, require an owner to prepare his elevator, dumb-waiter, escalator, manlift or incline lift, or any part of it, for inspection.
- Duty of  
owner during  
inspection (2) An inspector may require the owner of an elevator, dumb-waiter, escalator, manlift or incline lift to do or refrain from doing anything the inspector considers necessary during an inspection.
- Notice to  
comply with  
Act (3) An inspector may, by notice in writing, require an owner of an elevator, dumb-waiter, escalator, manlift or incline lift to do or refrain from doing, within the time specified in the notice, such things as the notice specifies in order to ensure compliance with this Act and the regulations. R.S.O. 1960, c. 119, s. 11.
- Appeal to  
Minister **12.**—(1) Any person who considers himself aggrieved by a notice or order of an inspector may, within ten days after receipt of the notice or order, appeal in writing to the Minister who shall, upon notice to all interested persons, hear the appeal and make an order approving, disapproving or varying the notice or order appealed against.
- Suspension  
of licence  
not affected (2) The taking of an appeal under this section does not affect the suspension or revocation of a licence pending the disposition of the appeal by the Minister. R.S.O. 1960, c. 119, s. 12, *amended.*

**13.** No inspector or engineer of the Department is personally liable for anything done or omitted to be done by him in the performance of his duties under this Act or the regulations. 1970, c. 29, s. 3.

Inspector or  
engineer not  
liable

**14.**—(1) The chief inspector may grant a licence for any elevator, dumb-waiter, escalator, manlift or incline lift and may suspend, revoke or transfer any such licence.

Issue, etc.,  
of licences

(2) The licence shall designate the elevator, dumb-waiter, escalator, manlift or incline lift for which it is granted and the maximum capacity thereof. R.S.O. 1960, c. 119, s. 13 (1, 2).

Contents

(3) The licence is valid for the period for which it is granted, which shall not exceed twelve months, unless it is sooner suspended or revoked. 1965, c. 35, s. 7.

Term

(4) The licence for an elevator shall be kept by the owner in a conspicuous position in the car of the elevator for which it is granted, and any other licence shall be kept by the owner in a conspicuous position on or adjacent to the dumb-waiter, escalator, manlift or incline lift for which it is granted.

Posting up

(5) Where the licence of an elevator, dumb-waiter, escalator, manlift or incline lift is suspended or revoked, the chief inspector may cause such things to be done as he considers necessary to ensure that it will not be operated contrary to this Act and the regulations. R.S.O. 1960, c. 119, s. 13 (4, 5), *amended*.

Suspension  
or revoca-  
tion

**15.**—(1) No person shall commence a new installation or a major alteration of an elevator, dumb-waiter, escalator, manlift or incline lift until the drawings and specifications thereof have been approved by an engineer of the Department.

Drawings  
and speci-  
fications to  
be approved

(2) The drawings and specifications shall be submitted in triplicate and shall furnish full information as to the size, composition and arrangement of the proposed new installation or major alteration. R.S.O. 1960, c. 119, s. 14 (1, 2).

Submission  
of drawings  
and speci-  
fications

(3) Drawings and specifications submitted under this section shall bear the signature and seal of a professional engineer. 1970, c. 29, s. 4.

Drawings  
and  
specifications  
to be signed  
and sealed

(4) If the proposed new installation or major alteration complies with this Act and the regulations, the drawings and specifications thereof shall be approved in writing by an engineer of the Department and one set returned to the person who submitted them. R.S.O. 1960, c. 119, s. 14 (3).

Approval

**16.**—(1) Where an elevator, dumb-waiter, escalator, manlift or incline lift falls freely or travels beyond its normal operating limits or where the emergency supporting devices engage or where an accident occurs that causes injury to any person, the owner

Notice of  
failure and  
accidents



shall give notice in writing with full particulars thereof to the chief inspector within twenty-four hours thereafter. R.S.O. 1960, c. 119, s. 15 (1); 1965, c. 35, s. 8.

Notice where  
accident  
causes death

(2) Where an accident occurs in connection with an elevator, dumb-waiter, escalator, manlift or incline lift that results in the death of a person or in injuries that may result in the death of a person, the owner shall give notice thereof immediately after the accident by telephone or telegraph to the chief inspector, and no person shall, except for the purpose of saving life or relieving human suffering, interfere with, disturb, destroy, carry away or alter any wreckage, article or thing at the scene of or connected with the accident until permission so to do is given by an inspector.

Investiga-  
tion of  
failures and  
accidents

(3) On receipt of such notice under subsection 1 or 2, the chief inspector shall cause such investigation to be made as he considers necessary to determine the cause of the occurrence or accident. R.S.O. 1960, c. 119, s. 15 (2, 3), *amended*.

Obstruction  
of inspector

**17.** No person shall hinder or obstruct an inspector in the performance of his duties. R.S.O. 1960, c. 119, s. 16.

False  
statement

**18.** No person shall make any false or misleading statement in any communication, whether in writing or otherwise, to the Minister or to an inspector concerning any matter under this Act or the regulations. R.S.O. 1960, c. 119, s. 17.

Compliance  
with Act  
and regu-  
lations  
required

**19.** The owner of an elevator, dumb-waiter, escalator, manlift or incline lift shall not operate it and shall ensure that it is not operated unless it complies with this Act and the regulations. 1965, c. 35, s. 9, *part*.

Licence  
required

**20.** The owner of an elevator, dumb-waiter, escalator, manlift or incline lift shall not operate it and shall ensure that it is not operated unless it is licensed. 1965, c. 35, s. 9, *part*.

Idem

**21.** If the regulations provide qualifications for attendants or require attendants to be licensed, no person other than a qualified attendant or a licensed attendant, as the case may be, shall operate an elevator or incline lift. R.S.O. 1960, c. 119, s. 20.

Unsafe  
operation  
prohibited

**22.—(1)** No person shall operate an elevator, dumb-waiter, escalator, manlift or incline lift or cause or permit it to be operated if he has reason to believe that it is in an unsafe condition.

Idem

(2) No person shall operate an elevator, dumb-waiter, escalator, manlift or incline lift or cause or permit it to be operated in an unsafe manner. R.S.O. 1960, c. 119, s. 21.

**23.** No person shall operate an elevator, dumb-waiter, escalator, manlift or incline lift or cause or permit it to be operated with a load in excess of its maximum capacity as designated in its licence. R.S.O. 1960, c. 119, s. 22.

Excess  
loads

**24.** The prohibitions contained in sections 19 to 23 do not apply to an inspector, or a person authorized by an inspector, during the installation, alteration, repair, testing or inspection of an elevator, dumb-waiter, escalator, manlift or incline lift. R.S.O. 1960, c. 119, s. 23.

Exception,  
ss. 19-23

**25.**—(1) A person who contravenes any of the provisions of this Act or the regulations or any notice or order made thereunder is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000. R.S.O. 1960, c. 119, s. 24 (1); 1970, c. 29, s. 5.

Offence

(2) Where a person contravenes any of the provisions of this Act or the regulations or any notice or order made thereunder on more than one day, each such day shall be deemed to constitute a separate offence. R.S.O. 1960, c. 119, s. 24 (2).

Continued  
offences

**26.** No prosecution under this Act shall be instituted more than one year after the last act or default upon which the prosecution is based occurred. 1970, c. 29, s. 6.

Limitation  
on prosecu-  
tion

**27.** All fees collected under this Act and the regulations and all fines recovered for offences under this Act or the regulations shall be paid to the Treasurer of Ontario and form part of the Consolidated Revenue Fund. R.S.O. 1960, c. 119, s. 25.

Application  
of fees and  
penalties

**28.** Nothing in this Act or the regulations affects any provision of any other Act or regulation or any municipal by-law relating to hoistways or hoistway enclosures in so far as any such provision imposes additional or more stringent requirements than those contained in this Act and the regulations. R.S.O. 1960, c. 119, s. 26.

More  
stringent  
provisions  
not affected

**29.**—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) designating classes or sub-classes of elevators, dumb-waiters, escalators, manlifts or incline lifts;
- (b) defining a major alteration for the purposes of this Act and the regulations;
- (c) prescribing qualifications for persons who may be appointed inspectors or who may make inspections under this Act;

- (d) providing for the issue of certificates of competency to inspectors and determining the period for which such certificates shall continue in force and the terms upon which they may be renewed;
- (e) providing for the issue of certificates of competency to persons other than inspectors and determining the period for which such certificates shall continue in force and the terms upon which they may be renewed;
- (f) prescribing the reasons for which a certificate of competency may be suspended or cancelled;
- (g) regulating the use, location, design, construction, installation, operation, maintenance, ventilation, drainage, lighting, heating, alteration, repair, testing and inspection of elevators, dumb-waiters, escalators, manlifts or incline lifts and equipment used in connection therewith;
- (h) prescribing requirements as to the form and substance of the drawings and specifications to be submitted under this Act and the qualifications of persons by whom such drawings and specifications are to be prepared and certified and the fees to be paid upon submission of such drawings and specifications;
- (i) prescribing methods of determining maximum capacity for the purposes of this Act and the regulations;
- (j) adopting by reference in whole or in part with such changes as are considered advisable any safety code of the Canadian Standards Association for elevators, dumb-waiters, escalators, manlifts and incline lifts;
- (k) governing the conduct of persons in or about elevators, dumb-waiters, escalators, manlifts or incline lifts;
- (l) providing for and requiring the annual registration of contractors, prescribing the fees for the first and subsequent registrations and the conditions under which registrations may be made, suspended or cancelled;
- (m) prescribing qualifications for attendants or providing for and requiring the licensing of attendants;
- (n) prescribing the form of licences and the conditions under which licences or any class thereof may be granted, suspended, revoked or transferred or prohibiting the transfer of licences or any class thereof;
- (o) providing for fees to be paid on the grant or transfer of licences;
- (p) prescribing the fees to be paid for inspections by inspectors;

- (q) prescribing the fees to be paid by insurers for copies of inspectors' reports;
- (r) prescribing the circumstances under which expenses or special fees, or both, are to be paid and prescribing the special fees and designating the persons by whom such expenses or fees, or both, are to be paid;
- (s) requiring and prescribing the form and location of notices and markings that are to be kept in or about elevators, dumb-waiters, escalators, manlifts or incline lifts;
- (t) excluding from this Act any class or sub-class of elevators, dumb-waiters, escalators, manlifts or incline lifts;
- (u) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. R.S.O. 1960, c. 119, s. 27 (1); 1965, c. 35, s. 10.

(2) Any regulation may be made with respect to elevators, dumb-waiters, escalators, manlifts and incline lifts or with respect to any one or more of such types of mechanism or with respect to any one or more classes or sub-classes thereof. Idem

(3) Any word or expression used in this Act or the regulations may be defined in the regulations for the purposes of the regulations. Definitions

(4) Any regulation may be limited as to time or place of application, or both. R.S.O. 1960, c. 119, s. 27 (2-4). Limitations  
as to time  
and place

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## CHAPTER 144

**The Embalmers and Funeral Directors  
Act****1.** In this Act,Interpre-  
tation

- (a) “approved school” means a school or college approved by the Board;
- (b) “articled student” means a student who is articled to a licensed funeral director or a licensed embalmer in accordance with the regulations;
- (c) “Board” means the Board of Administration appointed under this Act;
- (d) “certificate of qualification” means a certificate of qualification issued under this Act;
- (e) “embalming” means the preservation of the dead human body, entire or in part, by the use of chemical substances, fluids or gases, ordinarily used, prepared or intended for such purpose, either by the outward application of such chemical substances, fluids or gases on the body, or by the introduction thereof into the body by vascular or hypodermic injection or by direct application into the organs or cavities, and “embalm” has a corresponding meaning;
- (f) “funeral director” means a person who operates for himself, or under his own or any other name for another person, partnership, firm or corporation, a business for the purpose of furnishing funeral supplies and services to the public;
- (g) “licence” means a licence issued under this Act, and includes a renewal thereof;
- (h) “licensed embalmer” means a person holding an embalmer’s licence under this Act;
- (i) “licensed funeral director” means a person holding a funeral director’s licence under this Act;
- (j) “Minister” means the Minister of Health;
- (k) “permit” means a permit issued under this Act;
- (l) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 120, s. 1.

Board of  
Administra-  
tion

**2.**—(1) The Board of Administration shall consist of five persons of whom not fewer than three shall be licensed funeral directors, and such persons shall be appointed by the Lieutenant Governor in Council and hold office during pleasure.

Officers

(2) The Lieutenant Governor in Council may appoint a member of the Board to act as chairman and another member to act as vice-chairman, and the members of the Board shall elect one of the members to be the secretary-treasurer.

Quorum

(3) Three members of the Board constitute a quorum.

Seat in  
Assembly  
not vacated  
R.S.O. 1970,  
c. 240

(4) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of a member of the Board, if he is a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any *per diem*, travelling or living allowance under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. R.S.O. 1960, c. 120, s. 2.

Staff

**3.** The Board may employ such officers, clerks and other persons as it requires, who shall be paid such amounts as may be determined by the Board. R.S.O. 1960, c. 120, s. 3.

Meetings

**4.**—(1) The Board shall hold meetings at least three times in every year at such time and place as is considered advisable by the majority of the members, and the Board may hold additional meetings at the call of the chairman or of any two members.

Notice of  
meetings

(2) Notice of every meeting, whether general or special, shall be sent by the secretary-treasurer by registered mail to every member of the Board at his address as last entered upon the register, not fewer than seven days before the day on which the meeting is to be held.

Waiver of  
notice

(3) Notwithstanding any of the provisions of this section, where all the members of the Board are present and waive notice and consent to the holding of a meeting, a meeting of the Board may be held at any time and place. R.S.O. 1960, c. 120, s. 4.

Powers of  
chairman  
acting for  
Board

**5.**—(1) Where owing to the urgent nature of any situation requiring the consideration of the Board it is impossible to convene a meeting, the chairman shall act as and for the Board and shall report the circumstances of the case and the action taken thereon at the next meeting.

Effect of  
decision of  
chairman

(2) The decision of the chairman in such circumstances is, subject to subsection 5 of section 16, final and binding unless and until reversed or altered by the Board. R.S.O. 1960, c. 120, s. 5.

**6.** In the absence of the chairman, the vice-chairman may act in his place and stand in respect of any of the matters mentioned in sections 4 and 5. R.S.O. 1960, c. 120, s. 6.

Powers of vice-chairman acting for Board

**7.—(1)** The receipts and expenditures of the Board shall be audited annually by an accountant licensed to practise in Ontario by The Public Accountants Council for the Province of Ontario and who is not a member of the Board.

Audit

(2) All moneys and securities received or held by the Board shall be held in the name of "Board of Administration under *The Embalmers and Funeral Directors Act*" and the moneys may be deposited in a branch of a chartered bank or a Province of Ontario Savings Office and may be withdrawn upon the signatures of any two of the chairman, vice-chairman and secretary-treasurer.

Moneys and securities

(3) The Board has power to establish an operating account in any bank described in subsection 2 and the amount in the account at any time shall not exceed \$3,000 and cheques shall be drawn upon the signature of the secretary-treasurer or such officer employed by the Board as it designates.

Operating accounts

(4) Securities may be purchased and sold on the order of the Board by any two of the chairman, vice-chairman and secretary-treasurer. R.S.O. 1960, c. 120, s. 7.

Purchase of securities

**8.—(1)** The Board shall make a report to the Minister, on or before the 31st day of January in every year, showing,

Annual report

- (a) the names of all licensed enbalmers and funeral directors in Ontario, specifying whether "emblamer" or "funeral director", and, in the case of a funeral director, the name under which his business is carried on;
- (b) the names of all permit holders, the period of time each permit has been in force and the reason for each renewal of permit;
- (c) the number of new certificates of qualification granted during the preceding year and the persons to whom granted;
- (d) the number of applications for certificates of qualification refused during the preceding year, and the reason for refusal;
- (e) the number of certificates of qualification revoked during the preceding year, and the reason for revocation;
- (f) the amount of fees received during the preceding year;
- (g) the revenue and expenditure of the Board during the year in detail, and the assets and liabilities at the end of the year; and



(h) such matters as are directed by the Minister.

Idem (2) The annual report shall be upon the basis of record as of the 31st day of October in the previous year.

Published report (3) The Board shall publish a report showing,

- (a) the number of new certificates of qualification granted;
- (b) the number of applicants for certificates of qualification refused;
- (c) the number of certificates of qualification revoked;
- (d) the financial statement; and
- (e) the list of members for the current year who are paid as of the 15th day of December in the previous year. R.S.O. 1960, c. 120, s. 8.

Application of R.S.O. 1970, c. 374 **9.** *The Public Authorities Protection Act* applies to the members and officials of the Board. R.S.O. 1960, c. 120, s. 9.

Funeral director's licence required **10.—**(1) No person shall act as a funeral director unless he is a licensed funeral director or is the holder of a permit.

Embalmer's licence or permit required (2) No person shall embalm a dead human body unless he is a licensed embalmer or is the holder of a permit.

Exceptions (3) Subsection 2 does not apply,

- (a) to an articulated student working under the direct supervision of an embalmer;
- (b) to a student of, or a person employed in, a recognized school of medicine; or
- (c) in a sparsely settled area where an embalmer is not available.

Publication of name of director (4) Where a licensed funeral director operates a business for another person, the name of the licensed funeral director shall appear on all stationery and advertisements of the business. R.S.O. 1960, c. 120, s. 10.

Transportation of body out of Ontario **11.** No person shall transport a dead human body out of Ontario unless it has been embalmed and prepared for transportation by a licensed embalmer. R.S.O. 1960, c. 120, s. 11; 1961-62, c. 39, s. 1.

Licence renewals **12.—**(1) The Board may issue a funeral director's licence or an embalmer's licence to a person who,

- (a) is the holder of a certificate of qualification;
- (b) is not less than twenty years of age; and
- (c) has complied with the requirements of the regulations, and may issue renewals thereof.

(2) For the purposes of this Act and the regulations, every licensed funeral director shall be deemed to be a licensed embalmer. Funeral director's licence

(3) Every licence and every renewal thereof expires on the 31st day of December next following the date of the licence or renewal. R.S.O. 1960, c. 120, s. 12. Expiration

**13.**—(1) For the purpose of serving the public in sparsely settled areas of Ontario, the Board may issue a permit to a person who is not the holder of a certificate of qualification. Permits

(2) A permit may be issued upon such terms and subject to such conditions as the Board prescribes, and every permit expires on the 31st day of December next following the date thereof or upon such earlier date as the Board may determine. R.S.O. 1960, c. 120, s. 13. Conditions; expiration

**14.** Every person who holds a funeral director's licence or permit shall cause it to be displayed to the public at all times at his place of business or the place of business where he is employed, and failure to comply with this section is *prima facie* evidence that such person is not the holder of a licence or permit. R.S.O. 1960, c. 120, s. 14. Display of licence or permit

**15.**—(1) The Board may issue a certificate of qualification to any person, Certificate of qualification

(a) who,

- (i) has served the period of apprenticeship required by the regulations and completed a course at an approved school, or
- (ii) is the holder of a certificate of qualification issued under this or any former public general Act of Ontario relating to embalmers and undertakers or embalmers and funeral directors, or
- (iii) satisfies the Board that for a period of not less than five years he held a licence and was engaged as an embalmer in a jurisdiction designated by the regulations;

(b) who satisfies the Board that he is of good moral character;

(c) who passes the examinations prescribed by the Board; and

(d) who pays the prescribed fee.

(2) A certificate of qualification issued under any public general Act of Ontario relating to embalmers and undertakers or Effect of certain certificates

embalmers and funeral directors to a person who on the 30th day of June, 1947, was licensed as an embalmer or funeral director has the same force and effect as a certificate of qualification issued under this Act.

Cancellation by failure to use

(3) Where the holder of a certificate of qualification is not the holder of a licence for a period of three consecutive years, the certificate of qualification shall *ipso facto* be deemed to be revoked. R.S.O. 1960, c. 120, s. 15.

Suspension of licence or permit

**16.**—(1) The Board may suspend the licence or permit of any person for such period and upon such conditions as it considers proper. R.S.O. 1960, c. 120, s. 16 (1).

Cancellation of licence or permit

(2) The Board may revoke the certificate of qualification and cancel the licence of any person, or may cancel the permit of any person, for any of the causes prescribed by the regulations. R.S.O. 1960, c. 120, s. 16 (2); 1961-62, c. 39, s. 2.

Hearing

(3) Before a certificate of qualification is revoked or a permit or licence is suspended or cancelled, the Board shall, by notice in writing, advise the holder of such certificate, permit or licence of the complaint or charge made against him and shall afford him an opportunity of appearing before the Board and of presenting such evidence and making such representations as he desires.

Power of Board at hearing  
R.S.O. 1970, c. 379

(4) The Board has the same powers as may be conferred upon a commissioner under *The Public Inquiries Act* in respect of a hearing under this section.

Appeal

(5) Any person whose certificate of qualification has been revoked or whose permit or licence has been suspended or cancelled under this section may, within thirty days after receipt of notice in writing of the decision of the Board, apply to a judge of the Supreme Court and the judge may review the decision of the Board and may make such order and give such directions as he considers proper, and his decision is final. R.S.O. 1960, c. 120, s. 16 (3-5).

Refusal to grant certificate, licence or permit

**17.** The Board may, after a hearing, refuse to grant a certificate of qualification, licence or permit for any reason that the certificate, licence or permit, if granted, could be revoked or cancelled. 1961-62, c. 39, s. 3.

Reissue of certificate of qualification

**18.** Where the certificate of qualification of a person has been revoked, the Board may issue a certificate of qualification to him,

(a) if he satisfies the Board that he is of good moral character and that he is a fit and proper person to be the holder of a certificate of qualification; and

(b) if he pays the prescribed fees. R.S.O. 1960, c. 120, s. 17.

**19.** The Board or any member thereof, or any person authorized by the Board, may enter and inspect at all reasonable times any place in which the business of a funeral director or an embalmer is carried on under this Act. R.S.O. 1960, c. 120, s. 18; 1961-62, c. 39, s. 4.

Power of Board to enter place of business

**20.—**(1) Where a funeral director carries on business with the public at more than one place of business,

More than one place of business

- (a) he may act as manager of only one of such places of business and each of the other places of business shall be deemed to be a branch;
- (b) he shall employ a different licensed funeral director as manager of each branch who shall have no other occupation; and
- (c) the manager of each branch shall have his ordinary residence,
  - (i) in the same municipality as the branch, or
  - (ii) within five miles of the branch.

(2) No corporation shall operate a funeral business unless at least one of the directors of the corporation is the holder of a certificate of qualification under this Act. R.S.O. 1960, c. 120, s. 19.

Corporate business

**21.—**(1) Where a funeral director carries on business with the public for a person, partnership, firm or corporation, he is responsible for the supervision and management of the business and in respect of such business he and the person, partnership, firm or corporation for whom he carries on business are responsible for due compliance with this Act and the regulations.

Responsibility for carrying on business of funeral director

(2) Where two or more funeral directors carry on business with the public, each of the funeral directors is responsible for the supervision and management of the business and for due compliance with this Act and the regulations. R.S.O. 1960, c. 120, s. 20.

Idem

**22.** A licensed embalmer or licensed funeral director is not liable to any action for negligence or malpractice in respect of professional services requested or rendered, unless the action is commenced within three months from the date when, in the matter complained of, such professional services terminated. R.S.O. 1960, c. 120, s. 21.

Limitation of actions for negligence

**23.** The Board may,

Schools

- (a) approve, establish or maintain any school or college that has for its purpose instruction in embalming and general preparation for and burial of the dead human body; and



- (b) pay out of the funds held by the Board such sums as it considers proper to assist in the establishment or maintenance of any such school. R.S.O. 1960, c. 120, s. 22.

## Regulations

**24.** Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) prescribing the equipment, facilities and other requirements for approved schools;
- (b) prescribing the requirements for admission to approved schools;
- (c) prescribing the course of training and instruction for approved schools;
- (d) providing for a system of apprenticeship under articles of apprenticeship for students of approved schools and prescribing a limitation upon or otherwise regulating the number of articulated students;
- (e) providing for the registration of articulated students with the Board;
- (f) providing for the examination of candidates for certificates of qualification;
- (g) authorizing the Board to alter the requirements of section 15 and the regulations in the case of an applicant for a certificate of qualification who has had special experience or training either in or outside Ontario;
- (h) prescribing jurisdictions for the purpose of subclause iii of clause *a* of subsection 1 of section 15;
- (i) providing for special courses of training and instruction for holders of certificates of qualification and requiring holders of certificates of qualification to take all or any of such courses;
- (j) providing for the issue of certificates of qualification and the issue and renewal of licences and permits;
- (k) prescribing the fees payable to the Board by articulated students and applicants for certificates of qualification and upon the issue and renewal of licences and permits, including special fees payable in special circumstances;
- (l) prescribing minimum standards for the premises, accommodation and equipment of funeral directors and providing for the inspection and approval thereof;
- (m) governing the premises where dead human bodies may be embalmed and the methods and materials that may be used;

- (n) governing the revocation, suspension or cancellation of certificates of qualification, licences and permits and prescribing the causes and procedure therefor;
- (o) regulating or prohibiting advertising by or on behalf of embalmers and funeral directors;
- (p) prescribing the books and records to be kept by the Board;
- (q) prescribing the duties of the secretary-treasurer and the assistant secretary of the Board;
- (r) providing for the employment by the Board of such persons or services as may be required and for the payment of expenses;
- (s) providing for and fixing the amount of a *per diem* allowance and an allowance for travelling and living expenses to members of the Board while engaged upon the business of the Board;
- (t) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 120, s. 23; 1961-62, c. 39, s. 5.

**25.—**(1) Every person who,

Offences

- (a) contravenes any of the provisions of section 10; or
- (b) not being the holder of a licence, holds himself out as an embalmer or uses any sign, letters, words or abbreviation implying that he is an embalmer; or
- (c) not being the holder of a funeral director's licence, holds himself out as a funeral director or uses any sign, letters, words or abbreviation implying that he is a funeral director; or
- (d) contravenes any of the provisions of this Act or the regulations,

is guilty of an offence and, subject to subsection 2, on summary conviction is liable to a fine of not more than \$25.

(2) Where an offence under clause *a*, *b* or *c* of subsection 1 continues beyond one day, the fine shall be not more than \$25 for each day during which the offence continues. R.S.O. 1960, c. 120, s. 24.

Continuing  
offences



## CHAPTER 145

## The Emergency Measures Act

**1.** In this Act,Interpre-  
tation

(a) “Director” means the Director of the Emergency Measures Branch of the Department of Justice;

(b) “emergency” means,

(i) a real or apprehended war, invasion or insurrection proclaimed to exist under the *War Measures Act* (Canada), or

R.S.C. 1952,  
c. 288

(ii) a natural emergency declared to exist under section 3;

(c) “Minister” means the Minister of Justice and Attorney General. 1962-63, c. 41, s. 1; 1965, c. 36, s. 1, *amended*.

**2.** There shall be a branch of the Department of Justice to be known as the Emergency Measures Branch which shall consist of the Director and such other officers and employees as are deemed necessary. 1965, c. 36, s. 2, *amended*.

Emergency  
Measures  
Branch

**3.** The Minister may declare a natural emergency to exist during the time, not exceeding ninety days, and in the part of Ontario that he designates. 1962-63, c. 41, s. 3, *amended*.

Declaration  
of natural  
emergency**4.—(1)** It is the responsibility of,

(a) each Minister of the Crown presiding over a department of government; and

(b) each board, commission or other branch of government designated by the Lieutenant Governor in Council,

Plans of  
provincial  
govern-  
mental  
bodies

to formulate a plan to provide for the continued functioning of the necessary services of the department or branch of government in the event of an emergency.

(2) Each county together with the local municipalities within the county that do not form part of the county for municipal purposes shall formulate a plan to provide for the continued functioning of municipal government and the necessary services of the municipalities in the event of an emergency. 1962-63, c. 41, s. 4 (1, 2).

Municipal  
plans



- Exception (3) Notwithstanding subsection 2, The Regional Municipality of York and The Municipality of Metropolitan Toronto shall formulate separate plans. 1962-63, c. 41, s. 4 (3), *amended*.
- Plans of municipalities (4) Every municipality in a territorial district shall formulate a plan to provide for the continued functioning of municipal government and the necessary services of the municipality or municipalities in the event of an emergency. 1962-63, c. 41, s. 4 (4).
- Duties of Director **5.**—(1) Every plan shall be prepared under the supervision and guidance of the Director. 1962-63, c. 41, s. 5 (1); 1965, c. 36, s. 3.
- Approval by Minister (2) Every plan and every amendment to a plan is subject to the approval of the Minister, and, before approving a plan or amendment, the Minister may make such alterations as he considers necessary for the purpose of uniformity or of co-ordinating the plan with other authorities or plans. 1962-63, c. 41, s. 5 (2), *amended*.
- Regulations **6.** The Minister may make such regulations as he considers necessary for the purposes of this Act. 1962-63, c. 41, s. 6, *amended*.
- Interpretation **7.**—(1) In this section,  
(a) “emergency area” means the area in which an emergency exists;  
(b) “minister” means a member of the Executive Council;  
(c) “Prime Minister” means the President of the Executive Council.
- Delegation of powers and duties (2) The powers and duties under any Act of any official, board, commission or other branch of the Government of Ontario may be delegated by an approved plan to any official, board, commission or branch of the government of a municipality for the purposes of the operation of the plan.
- Emergency powers (3) Where an emergency exists in an emergency area that includes all or part of two or more municipalities that have separate plans, the exercise by a municipality in the emergency area of its powers and duties under this or any other Act for the purposes of the operation of a plan is subject to the direction and control of the Prime Minister or a minister designated by him, where he considers it necessary, and, without restricting the generality of the foregoing, the Prime Minister or minister designated by him may direct and control the administration, facilities and equipment of each municipality in the emergency area for the purposes of,

- (a) maintaining, clearing and controlling the use of roads, streets and other public ways;
- (b) generating, transmitting and distributing electric power and controlling the use and allocation of equipment for the purpose;
- (c) obtaining and distributing accommodation, food and clothing and providing other welfare services;
- (d) notwithstanding section 9 of *The Energy Act*, generating, transmitting and distributing gas and controlling the use and allocation of equipment for the purpose; R.S.O. 1970,  
c. 148
- (e) providing or maintaining water supplies and sewage disposal;
- (f) the enforcement of law;
- (g) the fighting or prevention of fire; and
- (h) the health, safety and welfare of the inhabitants of the emergency area,

and the powers and duties of the municipality, upon the direction of the Prime Minister or minister designated by him, may be exercised for the benefit of any part of the emergency area notwithstanding that it is outside the boundary of the municipality.

(4) Where an emergency exists in Ontario or any part thereof, the Prime Minister or a minister designated by him may require any municipality in Ontario to provide such assistance as is considered necessary to the emergency area or any part thereof, and may authorize the payment of the cost of such assistance out of the Consolidated Revenue Fund. Assistance

(5) Where an emergency exists, the approved plans applying to the emergency area shall operate according to their provisions, notwithstanding the provisions of any other Act. 1965, c. 36, s. 4. Plans to  
govern

**8.**—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada in respect of the payment by Canada to Ontario of any part of the cost to Ontario and to municipalities in Ontario of planning or preparing for an emergency or of executing emergency plans. Agreements  
for  
contribution  
toward cost

(2) The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of any other province for the provision of any service, equipment or material in an emergency. 1962-63, c. 41, s. 7. Agreements  
for services,  
equipment  
and material

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## CHAPTER 146

## The Employment Agencies Act

**1.** In this Act,

Interpretation

- (a) “employment agency” means the business of procuring for a fee, reward or other remuneration,
- (i) persons for employment, or
  - (ii) employment for persons,
- and includes the business of counselling or testing persons for a fee, reward or other remuneration to assist them in securing employment;
- (b) “licence” means a licence under this Act;
- (c) “regulations” means the regulations made under this Act;
- (d) “supervisor” means the supervisor of employment agencies. R.S.O. 1960, c. 121, s. 1.

**2.** No person shall carry on an employment agency unless licensed so to do by the supervisor. R.S.O. 1960, c. 121, s. 2.

Licence required

**3.** Where an applicant,

Issue of licence

- (a) applies in the prescribed form;
- (b) pays the prescribed fee;
- (c) furnishes such security as is prescribed by the regulations; and
- (d) complies with the qualifications prescribed by the regulations,

the supervisor, if satisfied that the applicant is worthy of public confidence, may issue a licence to the applicant to carry on an employment agency of the class described in the licence. R.S.O. 1960, c. 121, s. 3.

**4.** A licence expires on the 31st day of March next following its date of issue, unless it is sooner suspended or revoked. R.S.O. 1960, c. 121, s. 4.

Term of licence

**5.** Where an employment agency is carried on in or from more than one place of business, a separate licence shall be obtained in respect of each place of business. R.S.O. 1960, c. 121, s. 5.

Branches, etc.



Refusal to  
issue,  
suspension,  
etc.

**6.**—(1) The supervisor, after a hearing, may refuse to issue or may suspend or revoke a licence if satisfied that the applicant or licensee, as the case may be, is in breach of this Act or the regulations or for any other reason is not worthy of public confidence.

Notice of  
revocation,  
etc., of  
licence

(2) Where the supervisor refuses to issue or suspends or revokes a licence, he shall send notice of the refusal, suspension or revocation to the applicant or licensee, as the case may be, by registered mail addressed to him at his last known address.

Appeal

(3) If the applicant or licensee, as the case may be, is dissatisfied with the decision of the supervisor, he may, within ten days after receipt of the notice of the decision, apply to the judge of the county or district court of the county or district in which he intended to carry on or carried on business for an order reversing the decision of the supervisor.

Idem

(4) On an application under subsection 3, the judge shall hold a hearing upon such notice as he considers proper and, after hearing the applicant, the supervisor and any evidence either of them produces, he may dismiss the application if he is not satisfied that the applicant is worthy of public confidence or he may order the supervisor to issue or reinstate the licence if he is satisfied that the applicant is worthy of public confidence. R.S.O. 1960, c. 121, s. 6.

Display of  
licence

**7.** A licensee shall display his licence in a conspicuous place in the premises in which he carries on business. R.S.O. 1960, c. 121, s. 7.

Offence

**8.** Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$500. R.S.O. 1960, c. 121, s. 8.

Regulations

**9.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the qualifications of applicants for licences;
- (b) classifying employment agencies;
- (c) prescribing the nature and amount of the security to be furnished by employment agencies or any class thereof;
- (d) limiting and prescribing the nature of the business that shall be carried on by employment agencies or any class thereof;
- (e) regulating and controlling the manner in which the business of employment agencies or any class thereof shall be carried on;

- (*f*) prescribing the records, books and accounts that shall be kept by employment agencies or any class thereof;
  - (*g*) prescribing the fee, reward or other remuneration that may be charged by employment agencies or any class thereof for their services;
  - (*h*) requiring, providing for and prescribing the annual or other returns that shall be made to the supervisor by employment agencies or any class thereof;
  - (*i*) fixing the fees to be paid for licences for employment agencies or any class thereof;
  - (*j*) providing for the inspection of employment agencies or any class thereof;
  - (*k*) prescribing forms and providing for their use;
  - (*l*) respecting any matter or thing necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 121, s. 9.
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## CHAPTER 147

**The Employment Standards Act**

## INTERPRETATION

**1. In this Act,**Interpre-  
tation

- (a) “Department” means the Department of Labour;
- (b) “Director” means the Director of Employment Standards appointed for the purposes of this Act;
- (c) “employee” includes a person who,
  - (i) performs any work for or supplies any services to an employer,
  - (ii) does homework for an employer, or
  - (iii) receives any instruction, or training in the activity, business, work, trade, occupation or profession of the employer;
- (d) “employer” includes any person who as the owner, proprietor, manager, superintendent, or overseer of any activity, business, work, trade, occupation or profession, has control or direction of, or is directly or indirectly responsible for, the employment of a person therein;
- (e) “holiday” means New Year’s Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day and where New Year’s Day, Dominion Day or Christmas Day falls on a Sunday, the day next following is in lieu thereof a holiday;
- (f) “homework” means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof by a person for wages in premises occupied primarily as living accommodation, and “homeworker” has a corresponding meaning;
- (g) “Minister” means the Minister of Labour or such member of the Executive Council as is for the time being charged with the administration of this Act;
- (h) “regulations” means the regulations made under this Act;
- (i) “wages” includes any form of remuneration for work or services performed, but does not include tips and other gratuities. 1968, c. 35, s. 1; 1970, c. 45, s. 1.



## PART I

## GENERAL

Minister  
responsible  
for admin-  
istration  
Director  
to be  
appointed

**2.**—(1) The Minister is responsible for the administration of this Act.

(2) A Director of Employment Standards shall be appointed for the purposes of this Act. 1968, c. 35, s. 2.

Agreements  
or waivers  
contrary  
to Act

**3.** This Act applies notwithstanding any agreement or waiver to the contrary. 1968, c. 35, s. 3.

Agreement,  
etc., to  
be null  
and void

**4.** Any agreement, arrangement or understanding by an employee with an employer, or any term or condition of employment implied by law, that results in the whole or any part of the wages of an employee being retained by, returned to or accepted by the employer, either directly or indirectly, is null and void. 1970, c. 45, s. 2, *part*.

Garnishment  
not to be  
grounds for  
dismissal

**5.** No employer shall dismiss or suspend an employee upon the ground that garnishment proceedings are or may be taken against that employee. 1970, c. 45, s. 2, *part*.

Director  
may make  
order

**6.** Where associated or related activities, businesses, trades or undertakings are carried on by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, the Director may by order determine that all or any one or more of such corporations, individuals, firms, syndicates or associations are a single employer for the purposes of this Act and those corporations, individuals, firms, syndicates or associations determined to be a single employer shall be jointly and severally liable to pay unpaid wages, overtime and holiday pay and vacation pay. 1970, c. 45, s. 2, *part*.

Continuity  
of  
employment

**7.** If an activity, business, trade or undertaking is disposed of, transferred or sold in any manner or amalgamated, whether by agreement, will, instrument, transfer, including transfer of shares, or by operation of law, the period of employment of an employee of the activity, business, trade or undertaking at the time of such disposition, transfer, sale or amalgamation, shall be deemed to have been employment with the disposee, transferee, purchaser or amalgamation and the continuity of employment shall not be broken. 1970, c. 45, s. 2, *part*.

Priority of  
claims

**8.**—(1) Notwithstanding the provisions of any other Act, a person to whom unpaid wages is due and owing by an employer shall have first priority over the claims or rights, including the claims or rights of the Crown, of all preferred, ordinary or general creditors of the employer to the extent of \$2,000.

(2) Every employer shall be deemed to hold vacation pay accruing due to an employee in trust for the employee and for payment of the vacation pay over in the manner and at the time provided under this Act and the regulations, and the amount shall be a charge upon the assets of the employer or his estate in his hands or the hands of a trustee and shall have priority over all other claims. 1970, c. 45, s. 2, *part*.

Vacation  
pay deemed  
to be  
held in trust

**9.**—(1) The standards for rates of wages and vacations with pay required under this Act are minimum standards only and nothing in this Act affects any rights or benefits of an employee under any law, custom, agreement or arrangement that is more favourable to him than his rights or benefits under this Act.

Standards  
as  
minimums

(2) Where there is conflict between the rate of wages, vacations with pay or payment in lieu thereof, or hours of work determined under this Act or the regulations and those determined under any other Act or any regulation or order made thereunder, or any schedule under *The Industrial Standards Act*, the greater rate of wages and vacations with pay and the lesser hours of work shall prevail. 1968, c. 35, s. 4.

Conflict  
with other  
Acts

R.S.O. 1970,  
c. 221

**10.** The Director or any person designated so to do, may inquire into any matter or thing relating to the administration or enforcement of this Act and the regulations, and, without limiting the generality of the foregoing, the Director, or the person designated so to do, may,

Powers of  
Director

- (a) summon and enforce the attendance of witnesses, and examine them under oath and require them to produce such documents and things as he considers requisite to the full investigation and consideration of matters or things within his jurisdiction;
- (b) accept such evidence, oral or written, as in his discretion he considers proper;
- (c) determine that all, any one or more or any combination of a corporation, individual, firm, syndicate or association are a single employer for the purposes of this Act;
- (d) determine whether a person is an employee or an employer for the purposes of this Act;
- (e) determine the regular rate paid to an employee;
- (f) determine whether any act, agreement, arrangement or scheme is intended to have or has the effect, directly or indirectly, of defeating the true intent and purpose of this Act;
- (g) determine whether an employer has failed to pay wages, or any pay or vacation pay to which an employee is entitled under this Act or under the terms and conditions of his employment;

- (h) determine whether an activity, business, trade or undertaking is or has been disposed of, transferred, sold or amalgamated within the meaning of section 7. 1970, c. 45, s. 3.

Acting  
Director

**11.** Where the Director is unable to act or there is a vacancy in the office, the powers and duties of the Director shall be exercised and performed by such employee of the Department as the Minister designates. 1968, c. 35, s. 6.

## PART II

### TERMINATION OF EMPLOYMENT

Application  
of Part

**12.** This Part applies to the Crown, every agency thereof and any board, commission, authority or corporation that exercises any functions assigned or delegated to it by the Crown. 1970, c. 45, s. 4, *part*.

Notice of  
termination

**13.**—(1) No employer shall terminate the employment of a person who has been employed for three months or more unless he gives,

- (a) one weeks notice in writing to the person if his period of employment is less than two years;
- (b) two weeks notice in writing to the person if his period of employment is two years or more but less than five years;
- (c) four weeks notice in writing to the person if his period of employment is five years or more but less than ten years; and
- (d) eight weeks notice in writing to the person if his period of employment is ten years or more,

and such notice has expired.

Idem

(2) Notwithstanding subsection 1, the notice required by an employer to terminate the employment of fifty or more persons in any period of four weeks or less shall be given in the manner and for the period prescribed in the regulations, and until the expiry of such notice the terminations shall not take effect.

Exceptions -

- (3) Subsections 1 and 2 do not apply to,
- (a) a person employed for a definite term or task;
  - (b) a person who is temporarily laid off, as defined in the regulations;
  - (c) a person who has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer;

- (d) a contract of employment that is or has become impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance; or
- (e) a person employed in an activity, business, work, trade, occupation or profession, or any part thereof, that is exempted by the regulations.

(4) Where an employer is required to give the notice referred to in subsection 2, he shall co-operate with the Minister during the period of the notice in any action or program intended to facilitate the re-establishment in employment of the persons whose employment is to be terminated.

Employer to co-operate with Minister

(5) Where the notice referred to in subsection 1 or 2 has been given,

Rates of wages, etc., not to be altered

- (a) no employer shall alter the rates of wages or any other term or condition of employment of any person to whom notice has been given; and
- (b) upon the expiry of the notice, the employer shall pay to the person the wages and any unpaid vacation pay to which he is entitled.

(6) Notwithstanding subsections 1 and 2, the employment of a person may be terminated forthwith where the employer gives to the person notice in writing to that effect and,

When employment may be terminated forthwith

- (a) pays to the person an amount equal to the wages to which the person would have been entitled for work that would have been performed by him at the regular rate for a normal non-overtime workweek for the period of notice prescribed under subsection 1 or the regulations, as the case may be; and
- (b) pays to the person any unpaid vacation pay to which the person is entitled under Part VII.

(7) Any amount payable under clause *a* of subsection 6 shall be deemed to be unpaid wages for the purpose of this Act.

Amount payable deemed to be wages

(8) Where an employer,

- (a) fails to give the notice in writing prescribed in subsection 1 or in the regulations, as the case may be;
- (b) fails to pay wages or any vacation pay to which an employee is entitled under clause *b* of subsection 5; or
- (c) fails to pay the moneys to which an employee is entitled under subsection 6,

Director may determine amounts payable

the Director may determine the amount or amounts that the employee is entitled to receive and section 34 applies.

(9) Subject to subsection 10, an employee to whom notice has been given under subsection 2 shall not terminate his employment until after the expiry of,

Notice by employee



- (a) one weeks notice in writing to the employer if the period of employment is less than two years; and
  - (b) two weeks notice in writing to the employer if the period of employment is two years or more.
- Idem (10) An employee may terminate his employment forthwith upon notice where his employer has been guilty of a breach of the terms and conditions of employment.
- Rights, etc., not affected (11) Nothing in this section affects any rights or benefits of an employee under any law, custom, agreement or arrangement that is more favourable to him than his rights or benefits under this section.
- Regulations (12) The Lieutenant Governor in Council may make regulations respecting any matter or thing necessary or advisable to carry out the intent and purpose of this Part, and, without restricting the generality of the foregoing, may make regulations,
- (a) prescribing the length of notice of termination of employment to be given by an employer or class of employers to a class or classes of employees;
  - (b) prescribing the length of notice of termination of employment to be given by an employee or class of employees to an employer or class of employers;
  - (c) prescribing the manner of giving notice of termination of employment and the form and contents of such notice;
  - (d) defining “temporarily laid off”, “termination of employment”, and “employment for a definite term or task”;
  - (e) prescribing what constitutes a period of employment; and
  - (f) exempting any activity, business, work, trade, occupation or profession, or any part thereof from the application of this Part. 1970, c. 45, s. 4, *part*.

### PART III

#### HOURS OF WORK

- Maximum hours **14.**—(1) Subject to subsection 2, the working hours of an employee shall not exceed eight in the day and forty-eight in the week.
- Exceptions (2) Subsection 1 does not apply to an employee whose only work is supervisory or managerial in character, or of a character exempted by the regulations. 1968, c. 35, s. 7.

**15.—**(1) Subject to subsection 2, an employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a working day in excess of eight hours, but the working hours of his employees shall not exceed forty-eight hours in a week.

Variation  
of working  
day

(2) The maximum working hours of an employee in a day prescribed by section 14 is subject to any schedule in force under *The Industrial Standards Act*. 1968, c. 35, s. 8.

Maximum  
working  
hours  
R.S.O. 1970,  
c. 221

**16.—**(1) The Director may issue a permit authorizing hours of work in an establishment in excess of those prescribed by section 14 or under section 15, but the excess working hours shall not exceed,

Permits for  
excess hours

- (a) in the case of an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman or other person, who in the opinion of the Director, is engaged in a similar occupation, twelve hours in each week for each employee; and
- (b) in the case of all other employees, 100 hours in each year for each employee.

(2) Notwithstanding subsection 1, the Director may issue a permit for work in excess of the maximum hours prescribed by subsection 1 where he is satisfied that the nature of the work or perishable nature of raw material being processed requires the excess hours.

Idem

(3) Notwithstanding subsections 1 and 2, the overtime work of a female employee under the age of eighteen years shall not exceed six hours in a week.

Overtime  
work of  
female  
employee

(4) The limit of hours of work prescribed by subsection 1 of section 14 may be exceeded in case of an accident, or in case of work urgently required to be done to machinery or plant, but only so far as may be necessary to avoid serious interference with the ordinary working of the establishment. 1968, c. 35, s. 9.

Exceeding  
maximum  
in case of  
accident

**17.** A permit issued under section 16 shall contain such terms and conditions as the Director may prescribe. 1968, c. 35, s. 10.

Terms and  
conditions  
of overtime  
work

**18.—**(1) No employer may require or permit work, and no employee may work or agree to work, any hours that exceed the maximum hours determined under this Act.

Agreements  
subject to  
maximums

(2) The issuance of a permit under section 16 does not require an employee to work any hours in excess of those prescribed by section 14 without the consent or agreement of the employee or his agent. 1968, c. 35, s. 11.

Permit  
does not  
obligate  
employee

Employ-  
ment of  
females  
at night

**19.**—(1) No female employee under the age of eighteen years shall work in an establishment between the hours of 12 o'clock midnight and 6 o'clock in the forenoon of any day.

Employer  
to provide  
transporta-  
tion

(2) Where the work period of a female employee ends between 12 o'clock midnight and 6 o'clock in the forenoon, the employer shall provide her with private transportation to her residence at his expense.

Idem

(3) Where the work period of a female employee begins between 12 o'clock midnight and 6 o'clock in the forenoon, the employer shall provide her with private transportation from her residence to the place of employment at his expense. 1968, c. 35, s. 12.

Eating  
periods

**20.** Every employer shall provide eating periods of at least one-half hour, or such shorter period as is approved by the Director, at such intervals as will result in no employee working longer than five consecutive hours without an eating period, but where immediately before the 1st day of January, 1969 an employer provided eating periods that were shorter than one-half hour, he may continue such eating periods unless ordered to do otherwise by the Director. 1968, c. 35, s. 13, *amended*.

## PART IV

### OVERTIME PAY

Overtime  
pay

**21.**—(1) Where an employee works for an employer in excess of forty-eight hours in any week, he shall be paid for each hour worked in excess of forty-eight hours an amount not less than one and one-half times his regular rate.

Holidays

(2) Where an employee works on a holiday, he shall be paid for each hour worked an amount not less than one and one-half times his regular rate. 1968, c. 35, s. 14.

Regular  
rate not  
to be  
reduced

(3) In complying with subsections 1 and 2, no employer shall reduce the regular rate of wages payable to an employee. 1970, c. 45, s. 5.

## PART V

### MINIMUM WAGES

Statutory  
agreement  
for  
minimum  
wage

**22.** Every employer who permits any employee to perform any work with respect to which a minimum wage is established shall be deemed to have agreed to pay to the employee at least the minimum wage established and the minimum wage shall be paid to the employee only by cash or by cheque payable at par at the place where the employee performed the work. 1968, c. 35, s. 16.

**23.** For the purpose of enabling a handicapped person to be gainfully employed, the Director may, upon the application of the handicapped person or his employer and with the consent of the handicapped person, his parent or guardian, authorize the employment of such handicapped person at a wage lower than the minimum wage prescribed under a regulation. 1968, c. 35, s. 17.

Handicap-  
ped em-  
ployees

**24.** This Part does not apply to apprentices to whom *The Apprenticeship and Tradesmen's Qualification Act* applies. 1968, c. 35, s. 18.

*The* Application  
of Part  
R.S.O. 1970,  
c. 24

## PART VI

### EQUAL PAY FOR EQUAL WORK

**25.**—(1) No employer or person acting on behalf of an employer shall discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or vice versa, employed by him for the same work performed in the same establishment, the performance of which requires equal skill, effort, and responsibility, and which is performed under similar working conditions, except where such payment is made pursuant to,

Equal pay  
for equal  
work

- (a) a seniority system;
- (b) a merit system;
- (c) a system that measures earnings by quantity or quality of production; or
- (d) a differential based on any factor other than sex.

(2) No employer shall reduce the rate of pay of an employee in order to comply with subsection 1.

Pay not  
to be  
reduced

(3) No organization of employers or employees, as the case may be, or its agents shall cause or attempt to cause an employer to pay to his employees rates of pay that are in contravention of subsection 1.

Employer  
not to be  
requested to  
contravene  
subs. 1

(4) Where in the opinion of the Director an employer has not complied with subsection 1, the Director may determine the amount of moneys owing to an employee, and such amount shall be deemed to be unpaid wages.

Determina-  
tion by  
Director

(5) This section applies to the Crown and every agency thereof. 1968, c. 35, s. 19.

Section  
applies to  
Crown

**26.**—(1) Where the Director is unable to effect a determination under subsection 4 of section 25, the Minister, on the recommendation of the Director, may appoint a board of inquiry, composed of one or more persons, to investigate the matter.

Appoint-  
ment of  
board of  
inquiry



Names of  
members  
to be com-  
municated

(2) The Director shall communicate the names of the members of the board to the parties concerned.

Powers  
R.S.O. 1970,  
c. 232

(3) The board shall have the powers of a conciliation board under section 30 of *The Labour Relations Act*.

Duties

(4) The board shall give the parties full opportunity to present evidence and to make submissions and shall recommend to the Director the course of action that ought to be taken.

Majority  
recom-  
mendations  
to prevail

(5) If the board is composed of more than one person, the recommendations of the majority are the recommendations of the board.

Clarification  
of recom-  
mendations

(6) After the board has made its recommendations, the Director may direct it to clarify or amplify any of them and they shall be deemed not to have been received by the Director until they have been so clarified or amplified.

Remunera-  
tion

(7) The rate of remuneration of the chairman and members of a board of inquiry appointed under this section shall be the rate paid from time to time to the chairman and members of a conciliation board under *The Labour Relations Act*. 1968, c. 35, s. 20.

R.S.O. 1970,  
c. 232

## PART VII

### VACATIONS WITH PAY

Vacations

**27.**—(1) Every employer shall give to each employee,

- (a) a vacation with pay of at least one week upon the completion of the first twelve months of employment; and
- (b) a vacation with pay of at least two weeks upon the completion of each twelve months of employment thereafter.

Idem

(2) Where an employee has completed twelve months of non-continuous employment during any period of thirty-six consecutive months subsequent to the year 1966, the employer shall give to the employee a vacation of at least one week with pay upon the completion of the first twelve months of non-continuous employment and a vacation of two weeks with pay upon the completion of each twelve months of employment thereafter. 1970, c. 45, s. 7, *part*.

When  
vacation  
taken

**28.**—(1) The employer shall determine the period when an employee may take the vacation provided by section 27, which in the case of a two-week vacation may be a two-week period or two periods of one week each, but in any case the employee shall be given his vacation not later than ten months after the end of the year for which the vacation was given.

(2) Notwithstanding subsection 1, the Director may require the employer to pay to an employee at any time the vacation pay to which the employee is entitled under section 27. 1970, c. 45, s. 7, *part*. Director may require employer to pay

**29.** Subject to subsection 1 of section 9, in the case of a one-week vacation the amount of pay for the vacation shall not be less than an amount equal to 2 per cent of the total pay of the employee in the year for which the vacation is given and, in the case of a two-week vacation the amount of pay for the vacation shall not be less than an amount equal to 4 per cent of the total pay of the employee in the year for which the vacation is given. 1970, c. 45, s. 7, *part*. Vacation pay

**30.** Where an employee has not been given a vacation with pay pursuant to section 27 or the employment of an employee is terminated for any cause or by operation of law, the employee shall be paid, Payment in lieu of vacation

(a) an amount equal to 2 per cent of the total pay of the employee in the first twelve months of employment or any part thereof; and

(b) an amount equal to 4 per cent of the total pay of the employee in each succeeding twelve months of employment, or any part thereof. 1970, c. 45, s. 7, *part*.

**31.** Any agreement between the employer and his employees respecting the method of providing funds for paying vacation pay, or payment in lieu of vacation, or of any arrangements for the taking of vacation, is subject to the approval of the Director. 1968, c. 35, s. 25. Agreements for pay in lieu of vacation

## PART VIII

### HOMEWORKERS

**32.—(1)** An application for a permit to employ homeworkers shall be made by the employer to the Director. Application for permit

(2) No person shall employ a homemaker without a permit therefor issued by the Director. Permits

(3) The Director may issue a permit on such terms and conditions as he considers advisable. Terms and conditions

(4) The Director may revoke or suspend a permit for a breach of a term or condition thereof, or where the holder is liable for a nuisance within the meaning of *The Public Health Act*, or a breach of any Act. Revocation and suspension R.S.O. 1970, c. 377

(5) Every employer shall keep a register and enter therein the name and address of every homeworker to whom he gives homework, and the wages paid therefor. 1968, c. 35, s. 26. Register of homeworkers

## PART IX

## WAGE PROTECTION

Pay  
statement

**33.** Every employer shall furnish to every employee at the time wages are paid to the employee, a statement in writing which can be retained by the employee, setting forth,

- (a) the period of time or the work for which the wages are being paid;
- (b) the rate of wages to which the employee is entitled unless such information is furnished to the employee in some other manner;
- (c) the amount of the wages to which the employee is entitled;
- (d) the amount of each deduction from the wages of the employee and the purpose for which each deduction is made;
- (e) any living allowance or other payment to which the employee is entitled; and
- (f) the net amount of money being paid to the employee. 1968, c. 35, s. 27.

Determin-  
ation of  
amounts  
payable

**34.—(1)** Where an employer has failed to pay any amount of wages, overtime pay, pay for work performed on a holiday or vacation pay that is due to an employee or employees under this Act or under any law, custom, agreement or arrangement that is more favourable to him or them than his or their rights or benefits under this Act, the Director or any person designated so to do may determine the amount or amounts due to the employee or employees.

Notice to  
employer,  
etc.

(2) Where a determination has been made under subsection 1, the Director or any person designated so to do shall by notice in writing require the employer to pay to the Director in trust any amount, not exceeding \$2,000 for any employee, that an employer has failed to pay to his employee or employees, and in addition to that amount the Director or any person designated so to do shall require the employer to pay to the Director in trust a penalty of 10 per cent of that amount.

Employer  
may appeal  
to Minister

(3) Where the employer has paid the amount and the penalty required under subsection 2, the employer may, within fifteen days of the date of the notice, apply in writing in the prescribed form to the Minister for a review of the determination.

Hearing

(4) The Minister or a person designated by him to review the determination shall give the employer notice of the time and place of hearing at which the employer or his agent may attend, present his evidence, and make his submissions, and the Minister or the

person designated by him so to do may exercise any powers under section 10 and shall give his final decision which may vary, rescind or confirm the amount payable by the employer.

(5) An employer dissatisfied with a decision made under subsection 4 may appeal from the decision to the Court of Appeal within fifteen days from the date of the decision upon the ground that the decision is,

Appeal to  
Court of  
Appeal

- (a) erroneous in point of law; or
- (b) in excess of jurisdiction.

(6) Upon the request of an employer desiring to appeal, the Minister or person designated by him to review the determination shall state a case setting forth the facts as found and the grounds upon which the decision is questioned.

Minister  
to state  
case on  
request

(7) An appeal under subsection 5 shall be by motion, notice of which shall be served upon the Minister and the record shall consist of the case as stated.

Procedure

(8) The Court of Appeal shall hear and determine the appeal in accordance with the practice in appeals from a decision of a judge of the Supreme Court and may make such order as the court considers proper or may refer the matter or any part thereof back to the Minister or the person designated by him to review the determination with such directions as the court considers proper. 1968, c. 45, s. 8 (1-8).

Idem

(9) Where no appeal has been made to the Minister, the Director shall pay to the employee or employees the moneys collected from the employer on his or their behalf.

Payment to  
employee  
where no  
appeal

(10) Where an appeal has been made to the Minister or an appeal has been taken under subsection 5, the Director shall pay to the employee or the employees the amounts owing as determined upon the final disposition of the appeal and shall pay to the employer any moneys to which the employer is entitled upon that final disposition. 1970, c. 45, s. 8 (9, 10).

Payment to  
employee,  
etc., when  
appeal taken

**35.—**(1) When the Director has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to an employer who is liable to make any payment under this Act, he may, by registered letter or by a letter served personally, require the first named person to pay the moneys otherwise payable to the employer in whole or in part to the Director in trust on account of the liability under this Act.

Garnishment

(2) The receipt of the Director for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. 1970, c. 45, s. 9.

Idem



## PART X

## REGULATIONS

Regulations

**36.**—(1) The Lieutenant Governor in Council may make regulations for carrying out the purposes of this Act and, without restricting the generality of the foregoing, may make regulations,

- (a) establishing minimum rates of wages for employees;
- (b) designating or defining any establishment or part thereof to which the regulation is applicable;
- (c) designating or defining the zone or zones within Ontario in which any regulation or provision thereof is applicable;
- (d) defining what comprises a regular rate of pay;
- (e) prescribing conditions of employment;
- (f) exempting any class of employers or employees from the application of this Act or the regulations or any provision thereof;
- (g) prescribing what constitutes the performance of work in respect of which minimum wages shall be paid;
- (h) specifying the deductions that may be made from the wages paid to employees;
- (i) providing for a system of vacation-with-pay credit stamps for use in the construction industry as defined in the regulations, and providing for the sale and redemption of such stamps;
- (j) prescribing the maximum number of hours that may elapse between the commencement and the termination of the daily work period or periods of an employee;
- (k) prescribing the records that shall be kept and the returns that shall be made by employers;
- (l) governing the production and inspection of records required to be kept by employers;
- (m) requiring employers in any establishment or branch thereof to notify employees, by the publication of such notices, in such manner as may be prescribed, of the provisions of this Act or any regulation or permit made thereunder;
- (n) prescribing rates of pay and hours of work for the whole or part of any industry, business or trade in a designated part of Ontario;
- (o) providing for the substitution of another day in lieu of a day defined as a holiday in this Act;
- (p) providing for the averaging of daily or weekly hours of work over a longer period of time;

- (q) providing for the setting up of a consultative or advisory committee to advise the Minister on any matters arising in relation to the administration of this Act;
- (r) prescribing forms and providing for their use;
- (s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1968, c. 35, s. 29 (1); 1970, c. 45, s. 10.

(2) A regulation made under subsection 1 or any provision thereof may be confined in its application to any class of employer, employee or establishment defined in the regulation. 1968, c. 35, s. 29 (2). Application

## PART XI

### ADMINISTRATION

**37.** Every employer shall post and keep posted any notice required by the Director in a conspicuous place where his employees are engaged in their duties. 1968, c. 35, s. 30. Posting notices

**38.—**(1) Every employer shall, Records

- (a) make and keep in Ontario for a period of twenty-four months after work is performed by an employee complete and accurate records in respect of the employee showing,
  - (i) his name and address,
  - (ii) his age, if under eighteen years of age,
  - (iii) the number of hours worked by him in each day and week,
  - (iv) the number of hours worked by him in any day or week in excess of the hours prescribed by this Act or the regulations,
  - (v) wage rate and actual earnings; and
- (b) make and keep for a period of five years after work is performed by an employee complete and accurate records in respect of the employee showing,
  - (i) his name and address,
  - (ii) the date of commencement of his present term of employment and the anniversary date thereof, and
  - (iii) his earnings during each pay period and his vacations with pay or payment to him in lieu thereof.1968, c. 35, s. 31 (1); 1970, c. 45, s. 11.

(2) Subclause iii of clause a of subsection 1 does not apply in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer establishes a regular working day in accordance with section 14 Exception

and makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty-eight hours a week. 1968, c. 35, s. 31 (2).

Production  
of records

**39.** An employer shall,

- (a) produce the records required under this Act for inspection by the Director or any person authorized by the Minister, and shall for this purpose provide access to his premises for the Director or such person at all reasonable times and at any time his employees are engaged in their work; and
- (b) furnish such information from the records at such time and place as the Director may require. 1968, c. 35, s. 32.

Information

**40.—**(1) The Director may,

- (a) require any employer to make or furnish such full and correct statements, either orally or in writing as the Director requires, respecting the wages, hours of work, vacations with pay and conditions of work of any of his employees, and require the statements to be made by the employer on oath or to be verified by his statutory declaration;
- (b) require any employee to make such full and correct statements, either orally or in writing as the Director requires, respecting his wages, hours of work, vacations with pay and other matters relating to his employment, and require such statements to be made on oath or verified by his statutory declaration.

Examina-  
tion of  
records  
inspection of  
premises

(2) The Director or any person authorized by the Minister may,

- (a) inspect and examine all books, payrolls and other records of an employer that in any way relate to the wages, hours or work, vacations with pay or conditions of work of his employees;
- (b) take extracts from or make copies of any entry in the books, payrolls and other records mentioned in clause a;
- (c) at any reasonable time, enter any establishment or business or other premises for the purpose of making an inspection, provided, however, that he shall not enter any room or place actually used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*; and

- (d) question any employee apart from his employer. 1968, c. 35, s. 33.

**41.**—(1) Where the Director is authorized under this Act or the regulations to require a person to furnish information, the Director may require the information to be furnished by a notice to that effect served personally or sent by registered mail addressed to the last known place of abode of the person for whom the notice is intended, and such person shall furnish the information within such reasonable time as is specified in the notice.

Notice to  
furnish  
information

(2) A certificate of the Director certifying that the notice was sent by registered mail to the person to whom it was addressed, accompanied by and identifying the post office certificate of the registration and a true copy of the notice is admissible as *prima facie* proof of the mailing and receipt of the notice.

Proof of  
service of  
notice

(3) Where the Director is authorized to require a person to furnish information under this Act, a certificate of the Director certifying that the information has not been furnished is admissible as *prima facie* proof that in such case the person did not furnish the information.

Proof of  
failure  
to comply

(4) A certificate of the Director certifying that a document annexed thereto is a document or true copy of a document made by or on behalf of the Director is admissible as *prima facie* proof of the nature and contents of the document and shall be received in evidence in the place and stead of the original and has the same force and effect as the original document would have had if produced and proved.

Proof of  
documents

(5) A certificate under this section signed or purporting to be signed by the Director is admissible as *prima facie* proof of the facts stated therein and of the authority of the person giving or making the certificate without any proof of appointment or signature. 1968, c. 35, s. 34.

Proof of  
authority

## PART XII

### ENFORCEMENT

**42.**—(1) Every employer who dismisses or threatens to dismiss or otherwise discriminates against an employee because the employee has sought the enforcement of this Act or the regulations or has given information to a person authorized to require it under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Offence,  
reprisal by  
employer

(2) Where an employer is convicted of the offence of dismissing an employee under one of the circumstances mentioned in subsection 1, the provincial judge making the conviction shall, in addition to the penalty, order the employer,

Order of  
reinstatement



- (a) to reinstate the employee in his employ at such date as in the opinion of the provincial judge is just and proper in the circumstances and in the position that the employee would have held but for such dismissal; and
- (b) to pay to the employee compensation for loss of employment in an amount not exceeding the amount that, in the opinion of the provincial judge, is equivalent to the wages that would have accrued to the employee but for such dismissal.

Offence,  
failure  
to comply  
with order

(3) An employer who fails to comply with an order made under subsection 2 is guilty of an offence and on summary conviction is liable to a fine not exceeding \$50 for each day during which the failure continues. 1968, c. 35, s. 35, *amended*.

Penalty

**43.—**(1) Every person who,

- (a) furnishes false or misleading information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or requirement under this Act or the regulations; or
- (c) contravenes any provision of this Act or the regulations for which no penalty is otherwise provided,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Offence in  
respect  
of each  
employee

(2) Where an employer is convicted of an offence respecting the wages, hours of work, vacation, vacation pay or conditions of work of one or more employees, the offence against each employee shall be deemed to be a separate offence for the purposes of subsection 1.

Order for  
payment

(3) Where an employer is convicted of an offence including the failure to pay wages or vacation pay in accordance with this Act, the provincial judge making the conviction shall, in addition to any other penalty, assess the amount of wages or vacation pay so unpaid in respect of the employee and shall order the employer to pay the amount so assessed to the Director who shall collect and distribute to the employees the amount ordered to be paid.

Enforce-  
ment in  
small claims  
court

(4) A final order for payment under subsection 3 may be filed by the Director in a small claims court and thereupon the order shall be deemed to be an order of the small claims court for the purposes of enforcement. 1968, c. 35, s. 36.

Limitation  
on  
prosecution

(5) No prosecution under this Act shall be instituted more than two years after the last act or default upon which the prosecution is based occurred. 1970, c. 45, s. 12.

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## CHAPTER 148

**The Energy Act****1. In this Act,**Interpre-  
tation

1. “appliance” means a device using only gas or fuel oil as fuel, and includes all vents, and all gas or fuel oil piping, tanks, containers and controls attached or to be attached thereto;
2. “Board” means the Ontario Energy Board;
3. “contractor” means a person,
  - i. who carries on the business of installing, removing, repairing or servicing appliances, or
  - ii. who sells and agrees to install appliances; 1964, c. 27, s. 1, pars. 1-3.
4. “distributor” means a person who supplies gas or fuel oil to a consumer, and “distribute” and “distribution” have corresponding meanings; 1964, c. 27, s. 1, par. 5.
5. “fuel oil” means any hydrocarbon that is liquid at 60°F. and 29.92 inches of mercury and has a flashpoint of not less than 110°F. and that comes within the meaning of the Canadian Government Specifications Board Specification 3-GP-2c entitled FUEL OIL and dated the 18th day of December, 1959, 3-GP-3a entitled Kerosine and dated the 11th day of December, 1959 or 3-GP-6c entitled DIESEL FUEL and dated the 31st day of December, 1963;
6. “gas” means natural gas, manufactured gas or propane or any mixture of any of them;
7. “hydrocarbon” means gas, oil and fuel oil; 1967, c. 25, s. 1 (1).
8. “inspector” means an inspector appointed under this Act; 1964, c. 27, s. 1, par. 9.
9. “install” includes placing in position for temporary use; 1967, c. 25, s. 1 (2).
10. “land” includes any interest in land;
11. “licence” means a licence issued under this Act; 1964, c. 27, s. 1, pars. 10, 11.
12. “manufactured gas” includes,

- (i) sewage gas produced in a sewage treatment plant, and
  - (ii) a mixture of liquefied petroleum gas and air distributed by pipe line; 1967, c. 25, s. 1 (3).
13. "Minister" means the Minister responsible for the administration as determined under section 2; 1964, c. 27, s. 1, par. 13, *amended*.
  14. "oil" means crude oil, and includes any hydrocarbon that can be recovered in liquid form from a pool through a well;
  15. "owner" includes a person who is a mortgagee, lessee, tenant and occupant of land and a guardian, committee, executor, administrator or trustee in whom land is vested;
  16. "permit" means a permit issued under this Act;
  17. "person", in addition to its meaning in *The Interpretation Act*, includes a municipality; 1964, c. 27, s. 1, pars. 14-17.
  18. "pipe line" means a pipe that carries a hydrocarbon, other than propane, and includes every part thereof and adjunct thereto; 1964, c. 27, s. 1, par. 18; 1967, c. 25, s. 1 (4).
  19. "producer" means a person who has the right to remove gas or oil from a well, and "produce" and "production" have corresponding meanings except when referring to documents or records; 1964, c. 27, s. 1, par. 19.
  20. "propane" means liquefied petroleum gases or any mixture of any of them, undiluted with air, but does not include liquefied natural gas; 1967, c. 25, s. 1 (5).
  21. "registered" means registered under this Act, and "registration" has a corresponding meaning;
  22. "regulations" means the regulations made under this Act;
  23. "storage company" means a person engaged in the business of storing gas;
  24. "transmission line" means a pipe line, other than a production line, a distribution line, a pipe line within an oil refinery, oil or petroleum storage depot, chemical processing plant or pipe line terminal or station;
  25. "transmitter" means a person who carries a hydrocarbon by transmission line, and "transmit" and "transmission" have corresponding meanings;

26. "utility line" means a pipe line, telephone, telegraph, electric power or water line, or any other line that supplies a service or commodity to the public; 1964, c. 27, s. 1, pars. 20-25.
27. "well" means a hole drilled into a geological formation of Cambrian or more recent age, except a hole where no gas or oil is encountered that is drilled for the production of fresh water or salt; 1967, c. 25, s. 1 (6).
28. "work" means a well, equipment or pipe line and every part thereof and adjunct thereto that is used in the drilling for or production of gas or oil or the storage or distribution of gas or fuel oil, or the transmission of a hydrocarbon or the manufacture of gas. 1964, c. 27, s. 1, par. 27.

**2.** The Minister of Mines and Northern Affairs shall administer all the provisions of this Act respecting the exploration for, the drilling for, the production of, and the storage of oil and gas and the Minister of Labour shall administer all the provisions of this Act that relate to the safety of persons and property in the transmission, distribution and use of natural gas and petroleum products and in the storage, distribution, handling and use of propane and fuel oil. 1970, c. 61, s. 1.

Administra-  
tion

**3.—(1)** One or more inspectors may be appointed under *The Public Service Act* for the purposes of this Act.

Appointment  
of inspectors  
R.S.O. 1970,  
c. 386

(2) An inspector may, for the purposes of this Act and the regulations and for the purposes of any other Act or regulation that confers any function on an inspector,

Powers of  
inspector

- (a) enter in or upon, take up or use any property, real or personal, at any time;
- (b) require the production of any licence, permit or registration certificate, notice, document or record required by this Act or the regulations, and examine and copy it;
- (c) make such examinations, tests and inquiries as are necessary to ascertain whether this Act and the regulations are being complied with; and
- (d) exercise such other powers and do such other acts and things as are necessary for the carrying out of this Act and the regulations.

(3) The owner of any property and his servants, agents and employees shall furnish all means in his or their power required by the inspector for entry, inspection, testing and inquiry in the exercise of his powers and duties.

Idem



Inspector's  
instructions

(4) An inspector may give instructions orally or in writing to any person with respect to any matter or thing regulated, controlled or required by this Act or the regulations or by any order of the Board and may require that his instructions be carried out within such time as he specifies.

Written  
instructions

(5) If a person to whom an inspector gives oral instructions under subsection 4 requests that the instructions be put in writing, the inspector shall put the instructions in writing.

Not required  
to testify

(6) No inspector shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duty, except with the written permission of the Minister.

No personal  
liability

(7) No inspector is personally liable for anything done by him under the authority of this Act or the regulations. 1964, c. 27, s. 2.

Inspectors  
may tag  
works

4.—(1) An inspector may tag a work or appliance in relation to which he has reason to believe that an offence against this Act or the regulations has been, is being, or is about to be, committed by attaching a tag in the prescribed form to some part of the work or appliance.

Idem

(2) An inspector who has tagged a work or appliance shall forthwith notify in writing the person who appears to have the care or custody of the work or appliance of such tagging.

Tag not to  
be removed

(3) No person, other than an inspector, shall alter, deface or destroy such a tag, and no person, other than an inspector or a registered contractor who has remedied or repaired the work or appliance in accordance with requirements of the inspector, shall remove such a tag.

Tag to be  
forwarded  
to inspector

(4) Where such a tag is removed by a registered contractor, he shall endorse his name and address thereon and forward the tag by registered mail to the inspector who attached the tag.

Work not  
to be used

(5) Except when authorized by an inspector, no person shall operate, or remove hydrocarbons from, or knowingly supply hydrocarbons to, or use in any manner whatsoever, a work or appliance that has been tagged. 1964, c. 27, s. 3.

Chief  
inspectors  
R.S.O. 1970,  
c. 386

5.—(1) One or more chief inspectors may be appointed under *The Public Service Act* for the purposes of this Act.

Appeal to  
chief  
inspector

(2) A person who has just cause to believe that to comply with,

(a) an instruction given under subsection 4 of section 3; or

(b) a tag attached under section 4,

would cause physical injury to any person or would cause an unreasonable interference with the property or services of any person may appeal to a chief inspector by giving forthwith oral notice thereof to a chief inspector.

(3) Such oral notice may be given by telephone.

Idem

(4) The chief inspector so notified may vary, rescind or confirm the instruction or instruct the removal of or compliance with the tag. 1964, c. 27, s. 4.

Idem

**6.**—(1) No person shall,

(a) conduct a geophysical or geochemical exploration for gas or oil; or

No exploring, leasing or producing without licence

(b) lease gas or oil rights from an owner other than the Crown; or

(c) produce gas or oil,

unless he is the holder of a licence for such purpose, but the failure on the part of any person to comply with this subsection does not affect the validity of any contract. 1964, c. 27, s. 5 (1).

(2) No person shall operate a machine for boring, drilling, deepening or plugging wells unless the machine is licensed. 1964, c. 27, s. 5 (2); 1965, c. 37, s. 2.

No well-drilling machine to be operated without licence

(3) No person shall bore, drill or deepen a well unless he is the holder of a permit for such purposes. 1964, c. 27, s. 5 (3).

No well to be bored, etc., without permit

**7.**—(1) Subject to the regulations, no person shall repressure, maintain pressure in or flood any gas or oil horizon by the injection of gas, oil, water or other substance unless he is the holder of a permit for such purpose, but this prohibition does not apply to a person who injects gas in a designated gas storage area.

No gas to be injected, etc., without permit

(2) If, in the opinion of the Minister, the special circumstances of a case so require, he may refer an application for a permit to repressure, maintain pressure in or flood a gas or oil horizon to the Board, and the Board shall report to the Minister thereon, but, where, in the opinion of the Board, the special circumstances of the case so require, the Board shall hold a hearing before reporting to the Minister, and in either event the Minister shall grant or refuse to grant the permit in accordance with the report. 1964, c. 27, s. 6.

Reference to Board

**8.**—(1) No person shall,

(a) transmit a hydrocarbon;

(b) distribute gas;

(c) distribute fuel oil by pipe line;

(d) transfer propane to a pressure vessel; or

(e) transport propane,

Licences to handle hydrocarbons

unless he is the holder of a licence for such purpose, but the failure to comply with this subsection does not affect the validity of any contract.

Labelling of  
appliances

(2) No person shall buy, sell, offer for sale, lease, rent or install an appliance that does not bear the label of an organization designated in the regulations or a label issued by the Minister.

Registration  
of  
contractors

(3) No person shall carry on the business of installing, repairing, servicing or removing appliances or any class or classes thereof unless he is registered for the purpose.

Idem

(4) No person shall install, repair, service or remove or permit or cause to be installed, repaired, serviced or removed an appliance unless the installation, repair, service or removal is done by or under the supervision of a person who is licensed for such purposes. 1967, c. 25, s. 2.

Idem

(5) No person shall connect or have connected an appliance to a supply by pipe line of gas or fuel oil without first giving notice to the distributor of the gas or fuel oil of the address of the premises at which the installation is to be made and the type of appliance to be connected.

Inspection  
by  
distributor

(6) Where a premises is connected for the first time to a supply by pipe line of gas or fuel oil, no person shall use an appliance connected to the supply of gas or fuel oil until the distributor of the gas or fuel oil has inspected the appliance.

Idem

(7) A distributor shall have free access, at all reasonable times and upon reasonable notice given and request made, to all parts of every building or other premises to which gas or fuel oil is supplied for the purpose of inspecting or repairing or of altering or disconnecting any appliance in or outside the building or for placing meters upon any pipe or connection in or outside the building as he considers expedient, and, for that purpose or for the purpose of protecting or regulating the use of a meter, may set it or alter the position of it, or of any pipe, and may alter or disconnect any pipe. 1964, c. 27, s. 7 (5-7).

Emergency  
measures  
R.S.O. 1970,  
c. 145

**9.** Where an emergency exists within the meaning of *The Emergency Measures Act*, the Minister may, notwithstanding anything in this or any other Act, make such orders as he considers necessary to maintain the supply of gas to the public or any class or classes thereof. 1964, c. 27, s. 8.

Offences

**10.**—(1) Every person who,

- (a) contravenes any provision of this Act or the regulations;
- (b) unduly wastes or causes to be unduly wasted any gas or oil;

- (c) tampers or interferes with any work or appliance without authority to do so;
- (d) cuts, damages or interferes with a pipe line without authority to do so;
- (e) knowingly makes a false statement in an application, return or statement or other material required under this Act or the regulations;
- (f) fails to carry out the instructions of an inspector; or
- (g) wilfully delays or obstructs an inspector in the execution of his duties under this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$10,000 for each day over which the offence continues or to imprisonment for a term of not more than one year, or to both. 1964, c. 27, s. 9 (1); 1967, c. 25, s. 3.

(2) No information may be laid under this section without the written permission of the Minister in the form prescribed by the regulations. 1964, c. 27, s. 9 (2).

Permission  
of Minister

**11.**—(1) Subject to subsection 2 of section 7 of this Act and to section 21 of *The Ontario Energy Board Act*, the Minister may, in his discretion, with or without an examination of the applicant, grant or refuse to grant a licence or permit or effect or refuse to effect a registration, and he may, in granting a licence or permit or effecting a registration, impose such terms and conditions as he in his discretion considers proper, and, before granting a licence or permit or effecting a registration, he may refer the matter to the Board, and the Board shall hold a hearing and report to him thereon with its recommendations.

Grant of  
licence,  
etc.  
R.S.O. 1970,  
c. 312

(2) The Minister may grant or refuse to grant a renewal of a licence in whole or in part, a renewal of a permit in whole or in part, or effect or refuse to effect a renewal of a registration in whole or in part, and he may, in granting a renewal of a licence or permit or in effecting a renewal of a registration, impose such terms and conditions as he in his discretion considers proper, but, where he refuses to grant a renewal of a licence or permit in whole or in part, or to effect a renewal of a registration in whole or in part, or, in granting a renewal of a licence or permit or effecting a renewal of a registration, imposes any term or condition that was not previously imposed, he shall, if requested by the applicant, refer the matter to the Board, and the Board shall hold a hearing and report to him thereon, and he shall grant or refuse to grant or effect or refuse to effect the renewal in accordance with the report.

Renewal of  
licence,  
etc.

(3) The Minister may in his discretion suspend a licence, permit or registration in whole or in part, or, at any time, impose on a licence, permit or registration such terms and conditions as

Suspension  
of licences,  
etc.



he in his discretion considers proper, but, before so doing, he may, or, after so doing, he shall, refer the matter to the Board, and the Board shall hold a hearing and report to him thereon, and he shall impose, continue or remove the suspension or impose, continue or remove the terms and conditions in whole or in part, or revoke the licence, permit or registration in whole or in part, in accordance with the report.

Notice re  
revocation  
or  
suspension

(4) Where a licence, permit or registration has had terms or conditions imposed on it or is revoked or suspended in whole or in part, the Minister shall notify the holder in writing at his last known address, by registered mail, of the imposition, revocation or suspension, and the holder shall forthwith forward to the Minister his licence, permit or registration certificate so that the terms or conditions or the revocation or suspension may be recorded thereon. 1964, c. 27, s. 10.

Drilling  
and  
production  
regulations

**12.—**(1) The Lieutenant Governor in Council may make regulations,

- (a) for the conservation of gas or oil;
- (b) prescribing areas where drilling for gas or oil is prohibited;
- (c) prescribing the terms and conditions of gas and oil production leases and gas storage leases or any part thereof, and providing for the making of statements or reports thereon;
- (d) regulating the location and spacing of wells;
- (e) prescribing the methods, equipment and materials to be used in boring, drilling, completing or operating wells;
- (f) requiring the keeping of drilling and production samples;
- (g) requiring persons who drill wells to furnish reports, returns, geological and other information and samples;
- (h) requiring dry or abandoned wells to be plugged or replugged, and prescribing the methods, equipment and materials to be used in plugging or replugging wells;
- (i) prescribing the methods, equipment and materials to be used in shutting in wells;
- (j) to provide for the designation of spacing units and regulating the location of wells in spacing units and requiring and regulating the joining of the various interests within a spacing unit for the purpose of drilling or operating a well;
- (k) regulating the use of wells for the disposal of waste substances. 1964, c. 27, s. 11 (1); 1965, c. 37, s. 3; 1967, c. 25, s. 4 (1).

(2) The Lieutenant Governor in Council may make regulations, Transmission and distribution regulations

- (a) regulating the conditions of agreements between distributors and consumers;
- (b) prescribing classes of appliances and regulating the type, design, construction, installation, repair, maintenance, replacement, inspection, use or removal of them, or any class of them;
- (c) prohibiting the sale, installation or use of appliances, or any class of them;
- (d) designating organizations to test appliances to specifications approved by the Minister, and, where the appliances conform to the specifications, to place their label thereon;
- (e) requiring and providing for the inspection of appliances by distributors, and prescribing the frequency with which and the manner in which such inspection shall be made;
- (f) providing for the registration of contractors, or any class of them, and prescribing their responsibilities;
- (g) providing for the licensing of persons or classes of persons who may inspect, install, repair, service or remove appliances or pipe lines, and prescribing the acts that shall be performed by such persons personally;
- (h) prescribing classes of meters and requiring and providing for the registration of meters, or any class of them;
- (i) exempting any appliances, or any class of them, from the operation of or compliance with this Act or the regulations, or of any of the provisions thereof;
- (j) regulating the installation, use, removal, storage, handling and filling of containers, including the piping and attachments thereto, for liquefied petroleum gas;
- (k) prescribing the fee to be paid for the inspection of pipe lines and appliances, and prescribing by whom they shall be paid;
- (l) prescribing classes of transmitters and distributors. 1964, c. 27, s. 11 (2); 1967, c. 25, s. 4 (2).

(3) The Lieutenant Governor in Council may make regulations, General regulations

- (a) prescribing classes of hydrocarbons and classes of works;
- (b) regulating the construction, erection, alteration, installation, removal, operation or maintenance of any work or appliance, or any class thereof;

- (c) providing for the issue of licences, permits and labels;
- (d) prescribing classes of licences, permits and labels, and prescribing the terms and conditions upon which licences, permits or labels may be issued or registrations made;
- (e) prescribing the fee payable for any examination, licence, permit, label or registration;
- (f) requiring and providing for the bonding or insuring of holders of licences, permits or registration certificates;
- (g) requiring and providing for guarantees or other security by bond or other means that works commenced under permit will be completed in accordance with this Act, the regulations or any order of the Board;
- (h) creating a fund to be known as the Abandoned Works Fund for the completion or removal of works and prescribing the procedures for payment of money into and out of the fund, and authorizing the Minister to complete or remove works and to recover the cost of so doing;
- (i) permitting the sale by the Crown of abandoned works and permitting the application of the proceeds of the sale to expenses incurred in the doing of anything required to be done to or with the works;
- (j) permitting the Crown to cause anything to be done that the Board has ordered any person to do, and permitting the Crown to recover expenses from such person;
- (k) prescribing forms and tags, and providing for their use;
- (l) requiring and providing for the keeping of records and the making of returns, statements or reports on the leasing, exploration, drilling for or production of gas or oil or the storage, distribution, transmission or manufacture of gas;
- (m) exempting any person or any class of persons from the operation of or compliance with this Act or the regulations, or of any of the provisions thereof;
- (n) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Safety  
standards  
regulations

(4) The Lieutenant Governor in Council may make regulations regulating safety standards and requiring and providing for the keeping of safety records and the making of safety returns, statements or reports in the drilling for, production, manufacture, processing, refining, storage, measurement and consumption of gas, oil or fuel oil and in the transmission, distribution and carriage by pipe line of any hydrocarbon or any class thereof.

(5) Any regulation may adopt by reference, in whole or in part, Codes with such changes as the Lieutenant Governor in Council considers necessary, any code, and may require compliance with any code that is so adopted.

(6) Any regulation may designate any organization to authorize the use of its label on any work or appliance that complies with its code. Labels

(7) Any regulation may be general or particular in its application. 1964, c. 27, s. 11 (3-7). Scope of regulations

**13.**—(1) In the event of conflict between this Act and any other general or special Act, this Act, subject only to *The Ontario Energy Board Act*, prevails. Conflict R.S.O. 1970, c. 312

(2) This Act and the regulations prevail over any by-law passed by a municipality. 1964, c. 27, s. 12. Idem

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## CHAPTER 149

### The Escheats Act

**1.** In this Act,

Interpre-  
tation

- (a) “heir” means a person beneficially entitled to property of an intestate;
- (b) “property” means real property or personal property. R.S.O. 1960, c. 123, s. 1.

**2.**—(1) Where any property has become the property of the Crown by reason of the person last seised thereof or entitled thereto having died intestate and without lawful heirs, or has become forfeited for any cause to the Crown, the Public Trustee may cause possession thereof to be taken in the name of the Crown, or, if possession is withheld, may cause an action to be brought for the recovery thereof, without an inquisition being first made.

Proceedings  
for recovery  
of property

(2) The proceedings in the action shall be in all respects similar to those in other actions for the recovery of property. R.S.O. 1960, c. 123, s. 2.

Practice

**3.** Notwithstanding section 2, where mining lands as defined by *The Mining Act* have become forfeited to the Crown, such mining lands shall be dealt with and disposed of as Crown lands in the manner provided in *The Mining Act*. R.S.O. 1960, c. 123, s. 3.

Saving as to  
mining  
lands

R.S.O. 1970,  
c. 274

**4.** The Lieutenant Governor in Council may grant any property that has become the property of or has become forfeited to the Crown as mentioned in section 2, or any part thereof, or any interest therein, to any person for the purpose of transferring or restoring it to a person having a legal or moral claim upon the person to whom it had belonged, or of carrying into effect any disposition of it that such person may have contemplated, or of rewarding a person making discovery of the escheat or forfeiture, as to the Lieutenant Governor in Council seems proper. R.S.O. 1960, c. 123, s. 4.

Grant of  
forfeited  
property

**5.** Any such grant may be made without actual entry or taking possession of such property or inquisition being first made, and, if possession of the property is withheld, the person to whom the grant is made may institute proceedings for the recovery thereof in a court of competent jurisdiction. R.S.O. 1960, c. 123, s. 5.

Rights of  
grantee

Release or  
waiver of  
forfeiture

**6.** Where any such forfeiture takes place, the Lieutenant Governor in Council may waive or release any right to which the Crown may thereby have become entitled so as to vest the property, either absolutely or otherwise, in the person who would have been entitled thereto but for the forfeiture, and the waiver or release may be either for valuable consideration or otherwise and may be upon such terms and conditions as to the Lieutenant Governor in Council seems proper. R.S.O. 1960, c. 123, s. 6.

Sale of  
real estate

**7.—(1)** Where possession of any real estate or an interest therein has been taken by the Public Trustee under this Act, the Lieutenant Governor in Council may direct the sale of such real estate at such price and upon such terms as is determined, and the Public Trustee is thereupon authorized to sell, in accordance with the directions of the order in council, the whole or a part of such real estate or an interest therein and to convey it to the purchaser.

Sale of  
personal  
estate

**(2)** Where possession of any personal estate has been taken by the Public Trustee under this Act, he may sell it at such price and upon such terms as to him seem proper. R.S.O. 1960, c. 123, s. 7.

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## CHAPTER 150

## The Estreats Act

**1.**—(1) Unless otherwise provided, all fines and forfeited recognizances, the disposal of which is within the power of the Province of Ontario, set, imposed, lost or forfeited, by or before the Supreme Court or a court of general sessions of the peace, shall, upon the adjournment of such court, be entered and extracted on a roll by the registrar or clerk of the peace, as the case may be, or by some other person under the direction of a judge, which roll shall be made in duplicate and signed by the registrar or clerk or by the judge.

Entry of  
fines, etc.

(2) The person by whom the roll is prepared shall, at the foot thereof, certify in the following form:

Certificate of  
clerk

I, *A. B.*, (*describing his office*), do certify that this roll is truly and carefully made up and examined, and that all fines, issues, amerciaments, and forfeited recognizances, which were set, imposed, lost or forfeited, at or by the court therein mentioned, and which in right and due course of law ought to be levied and paid, are inserted in such roll; and that in the roll are also contained and expressed all such fines as have been paid to or received by me, either in court or otherwise, without any wilful error, omission, misnomer, or defect whatever.

*A. B.*

R.S.O. 1960, c. 124, s. 1.

**2.**—(1) Subject to section 8, as soon as the roll is prepared, one copy shall, in the Supreme Court, be transmitted to the office of the Registrar of the Supreme Court at Toronto, and in the general sessions shall remain deposited in the office of the clerk of the peace, and in both cases the other copy, with a writ of execution and *capias* in Form 1, shall be transmitted to the sheriff of the county or district in and for which such court was held.

Transmission  
of copy of  
roll

(2) Where the writ is intended to be executed in any other county or district, a certified copy of the roll, with a concurrent writ of execution and *capias* in Form 1, shall be transmitted to the sheriff of such county or district. R.S.O. 1960, c. 124, s. 2 (1, 2), *amended*.

*Idem*

(3) A writ, if unexecuted, remains in force for three years and no longer, unless renewed in the manner provided in the case of other writs of execution.

Duration  
of writ

(4) Where a recognizance is estreated and has not been discharged or satisfied, the court may order the issue of a new or alias writ of execution and *capias*, notwithstanding that more than three years have elapsed since the issue of the original writ. R.S.O. 1960, c. 124, s. 2 (3, 4).

Alias



Preparation  
of roll  
and issue of  
execution  
before ad-  
journment  
of court

**3.**—(1) At any time before the adjournment of the court, the registrar or clerk shall at the request of the Crown attorney prepare and certify a roll dealing with any one or more forfeited recognizances or fines and issue a writ of execution and *capias* in respect thereof, and such writ of execution and *capias* may be immediately placed in the hands of the sheriff for execution.

Note to be  
made on  
roll

(2) In any such case, the forfeiture or fine shall be mentioned in the roll and certificate required to be made up upon the adjournment of the court with an annotation of the issue of the certificate and execution, and the execution then to be issued does not apply thereto. R.S.O. 1960, c. 124, s. 3.

Mode of  
proceeding  
to levy fine  
etc.

**4.** The sheriff shall proceed to the immediate levying and recovering of such fines, issues, amerciaments and forfeited recognizances on the goods and chattels, lands and tenements of the persons named in the roll, or to the taking into custody of the bodies of such persons in case sufficient goods and chattels, lands or tenements cannot be found whereof the sums required can be made, and every person so taken shall be lodged in the correctional institution in the county or district until satisfaction is made or until the court, upon cause shown by the party as hereinafter mentioned, makes an order in the case, and until the order has been fully complied with. R.S.O. 1960, c. 124, s. 4, *amended*.

Estreat of  
recogniz-  
ances

**5.**—(1) Where a person bound by a recognizance for his appearance, or for whose appearance any other person has become so bound, does not appear at the time and place required or during the time the judge of the county or district judges' criminal court or provincial judge or justice of the peace has appointed, according to the terms of the recognizance, the judge or justice shall within forty-eight hours after such failure to appear cause a record of the recognizance to be drawn up and shall sign it and return it to the clerk of the peace for the county or district with a certificate on the back thereof signed by the judge or justice stating that the person charged has not complied with the obligation contained in the recognizance. R.S.O. 1960, c. 124, s. 5 (1), *amended*.

Record of  
estreats at  
sessions

(2) The clerk of the peace shall make a like record of estreat of every such recognizance as in the case of other recognizances forfeited at the court of general sessions of the peace.

Application  
of other  
provisions

(3) The other provisions of this Act apply to every such recognizance. R.S.O. 1960, c. 124, s. 5 (2, 3).

When recog-  
nizance  
forfeited  
while court  
not in  
session

(4) In the case of the forfeiture of a recognizance given by or on behalf of a person for his appearance before a provincial judge or justice of the peace or before the judge of the county or district judges' criminal court or by or on behalf of a person appealing from a conviction or order made in the first instance or on appeal, if the court of general sessions of the peace is not in session at the

time of such forfeiture, the clerk of the peace shall prepare and certify a roll setting out the forfeited recognizance and lay it before a judge of the county court in chambers, and the judge may thereupon by memorandum upon the roll order the estreating of such recognizance, and the clerk of the peace shall thereupon proceed as in other cases provided for by this Act. R.S.O. 1960, c. 124, s. 5 (4), *amended*.

**6.** Where a person bound by recognizance for his appearance, or for whose appearance any other person has become so bound, to prosecute or give evidence in the case of an offence for the commission of which a fine or penalty is imposed that the Province of Ontario is entitled to receive makes default, the officer of the court by whom the estreats are made out shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person or his surety was so bound, together with the residence, trade, profession or calling of every such person and surety, and shall in the list distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether, by reason of his non-appearance, the ends of justice have been defeated or delayed. R.S.O. 1960, c. 124, s. 6. Report by officer of the court

**7.** Every officer before a recognizance is estreated shall lay the list before a judge of the court, who shall examine the list and make such order touching the estreating or putting in process the recognizance as appears just, and no officer of the court shall estreat or put in process a recognizance without the written order of the judge before whom the list has been laid. R.S.O. 1960, c. 124, s. 7. Estreat of recognizances, etc.

**8.—(1)** Except in the cases of persons bound by recognizance for their appearance, or for whose appearance any other person has become so bound, to prosecute or give evidence, in every case of default whereby a recognizance has become forfeited, if the cause of absence is made known to the court, the court, on consideration of the cause and considering also whether by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated, and with respect to all recognizances estreated and all fines imposed by any court for the non-attendance of a juror or constable, or of a public officer bound to attend at the court, if it appears to the satisfaction of the judge who presided thereat that the absence of the person for whose appearance a recognizance was entered into, or that the absence of a person fined for non-attendance was owing to circumstances that rendered his absence justifiable, the judge may make an order directing that the sum forfeited upon the estreated recognizance or the fine imposed not be levied. Forbearance from estreat

Forbearance  
from levying  
fines, etc.

(2) The clerk before sending to the sheriff the roll, with the writ of execution and *capias*, shall submit the same to the judge for his revision, and the judge may make a minute on the roll and writ of any forfeited recognizances and fines that he thinks fit to direct not to be levied, and the sheriff shall observe the direction of the minute, and shall accordingly forbear to levy the forfeited recognizance or fine. R.S.O. 1960, c. 124, s. 8.

Procedure  
where lands  
are seized

**9.** Where the sheriff takes land or tenements in execution, his duties and the practice and procedure as to the sale shall be the same as in other cases of execution against lands. R.S.O. 1960, c. 124, s. 9.

Conditions  
upon which  
a party in  
custody of  
the sheriff  
may be  
released

**10.** If a person on whose goods and chattels a sheriff is authorized to levy a forfeited recognizance gives security to the sheriff for his appearance in the court into which the writ is returnable within thirty days after the giving of the security, or so soon thereafter as the court sits, then and there to abide the decision of the court, and also to pay the forfeited recognizance or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as are adjudged and ordered by the court, such person shall be discharged out of custody, and, if he does not appear in pursuance of his undertaking, the court may forthwith issue a writ of execution and *capias* against the surety or sureties of the person so bound. R.S.O. 1960, c. 124, s. 10.

Discharge of  
forfeited  
recogniz-  
ances, etc.

**11.** The court into which a writ of execution and *capias* is returnable may inquire into the circumstances of the case and may order the discharge of the whole of the forfeited recognizance, or sum paid or to be paid in lieu of satisfaction thereof, and may make such order thereon as to the court appears just, and the order is a discharge to the sheriff or to the party, according to the circumstances of the case. R.S.O. 1960, c. 124, s. 11.

Manner of  
return by  
sheriff, etc.

**12.** The sheriff to whom a writ is directed shall with his return state on the back of the roll attached to the writ what has been done in the execution thereof, and the return shall be filed in the proper office of the court into which it is made. R.S.O. 1960, c. 124, s. 12.

Certified  
return to  
Inspector of  
Legal Offices

**13.** A copy of the roll and return, certified by the clerk of the peace or by the local registrar of the Supreme Court, shall be forthwith transmitted to the Inspector of Legal Offices, with a minute thereon of any of the sums therein mentioned that have been remitted by order of the court, in whole or in part, or directed to be forborne under this Act. R.S.O. 1960, c. 124, s. 13.

Payment to  
Treasurer  
of Ontario

**14.** The sheriff shall, without delay, pay over all money collected by him to the Treasurer of Ontario or other officer or person entitled to receive it. R.S.O. 1960, c. 124, s. 14.

**15.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules regulating the practice and procedure for the estreating of recognizances in the Supreme Court or in the court of general sessions of the peace. R.S.O. 1960, c. 124, s. 15. Rules

**16.**—(1) This Act applies to any bond, recognizance or other security furnished under any statute of Ontario by or on behalf of any person for his appearance before a provincial judge or a justice or for the prosecution of any appeal in any matter or case punishable on summary conviction or in which an appeal lies from a conviction or order made by a judge or justice. R.S.O. 1960, c. 124, s. 16 (1), *amended*. Recognizances to prosecute appeal from convictions, etc.

(2) Rules may be made for regulating the practice upon the estreating of any such bond, recognizance or other security by the same authority and in the same manner as under section 15. R.S.O. 1960, c. 124, s. 16 (2). Rules

FORM 1  
*The Estreats Act*  
(Section 2)

WRIT OF EXECUTION AND CAPIAS

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

To the Sheriff of . . . . ., Greeting:

You are hereby commanded to levy of the goods and chattels lands and tenements of each of the persons mentioned in the roll or extract to this writ annexed, all and singular the debts and sums of money upon them severally imposed and charged as therein is specified; and if any of the said several debts cannot be levied by reason that no goods or chattels, lands or tenements can be found belonging to the said persons respectively, then and in all such cases, you are to take the bodies of such persons and keep them safely in the correctional institution in your county (*or district*), there to abide the judgment of Our Supreme Court (*or Court of General Sessions of the Peace, as the case may be*) upon any matter to be shown by them respectively, or otherwise to remain in your custody as aforesaid until such debt is satisfied, unless any of such persons respectively gives sufficient security for his appearance at the said court within thirty days after the giving of the security, or so soon thereafter as the court sits, for which you will be held answerable; and what you do in the premises make appear before Us in Our Supreme Court at Toronto (*or at the next Court of General Sessions of the Peace for the county (or district) of . . . . .*) immediately after the execution hereof and have then and there this writ.

Witness my hand . . . . . this . . . . . day  
of . . . . ., 19 . . . . .

. . . . .  
A. B.  
Registrar (*or Clerk of the Peace or as the case may be*) for  
the County of . . . . .





## CHAPTER 151

### The Evidence Act

**1.** In this Act,

Interpre-  
tation

- (a) “action” includes an issue, matter, arbitration, reference, investigation, inquiry, a prosecution for an offence committed against a statute of Ontario or against a by-law or regulation made under any such statute and any other proceeding authorized or permitted to be tried, heard, had or taken by or before a court under the law of Ontario;
- (b) “court” includes a judge, arbitrator, umpire, commissioner, justice of the peace or other officer or person having by law or by consent of parties authority to hear, receive and examine evidence. R.S.O. 1960, c. 125, s. 1, *amended*.

**2.** This Act applies to all actions and other matters whatsoever respecting which the Legislature has jurisdiction. R.S.O. 1960, c. 125, s. 2.

Application  
of Act

**3.—(1)** Where by any Act of the Legislature or order of the Assembly an oath is authorized or directed to be administered, the oath may be administered by any person authorized to take affidavits in Ontario.

Administra-  
tion of  
oaths

(2) Every court has power to administer or cause to be administered an oath to every witness who is called to give evidence before the court. R.S.O. 1960, c. 125, s. 3.

by courts

**4.** Where an oath or declaration is directed to be made before a person, he has power and authority to administer it and to certify to its having been made. R.S.O. 1960, c. 125, s. 4.

Certification

**5.—(1)** Notwithstanding any Act, regulation or the rules of court, a stenographic reporter, shorthand writer, stenographer or other person who is authorized to record evidence and proceedings in an action in a court or in a proceeding authorized by or under any Act may record the evidence and the proceedings by any form of shorthand or by any device for recording sound of a type approved by the Minister of Justice and Attorney General. 1960-61, c. 24, s. 1, *part, amended*.

Recording  
of evidence,  
etc.

Admissibility  
of  
transcripts

(2) Notwithstanding any Act, regulation or the rules of court, a transcript of the whole or a part of any evidence that has or proceedings that have been recorded in accordance with subsection 1 and that has or have been certified in accordance with the Act, regulation or rule of court, if any, applicable thereto and that is otherwise admissible by law is admissible in evidence whether or not the witness or any of the parties to the action or proceeding has approved the method used to record the evidence and the proceedings and whether or not he has read or signed the transcript. 1960-61, c. 24, s. 1, *part*.

Witnesses,  
not in-  
capacitated  
by crime,  
etc.

**6.** No person offered as a witness in an action shall be excluded from giving evidence by reason of any alleged incapacity from crime or interest. R.S.O. 1960, c. 125, s. 5.

Admissi-  
bility not-  
withstanding  
interest or  
crime

**7.** Every person offered as a witness shall be admitted to give evidence notwithstanding that he has an interest in the matter in question or in the event of the action and notwithstanding that he has been previously convicted of a crime or offence. R.S.O. 1960, c. 125, s. 6.

Evidence  
of parties

**8.—(1)** The parties to an action and the persons on whose behalf it is brought, instituted, opposed or defended are, except as hereinafter otherwise provided, competent and compellable to give evidence on behalf of themselves or of any of the parties, and the husbands and wives of such parties and persons are, except as hereinafter otherwise provided, competent and compellable to give evidence on behalf of any of the parties. R.S.O. 1960, c. 125, s. 7.

Evidence of  
husband  
and wife

(2) Without limiting the generality of subsection 1, a husband or a wife may in an action give evidence that he or she did or did not have sexual intercourse with the other party to the marriage at any time or within any period of time before or during the marriage. R.S.O. 1960, c. 125, s. 8.

Witness not  
excused from  
answering  
questions  
tending to  
criminate

**9.—(1)** A witness shall not be excused from answering any question upon the ground that the answer may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person or to a prosecution under any Act of the Legislature.

Answer not  
to be used  
in evidence  
against him

(2) If, with respect to a question, a witness objects to answer upon any of the grounds mentioned in subsection 1 and if, but for this section or any Act of the Parliament of Canada, he would therefore be excused from answering such question, then, although he is by reason of this section or by reason of any Act of the Parliament of Canada compelled to answer, the answer so given shall not be used or receivable in evidence against him in any civil proceeding or in any proceeding under any Act of the Legislature. R.S.O. 1960, c. 125, s. 9.

**10.** The parties to a proceeding instituted in consequence of adultery and the husbands and wives of such parties are competent to give evidence in such proceedings, but no witness in any such proceeding, whether a party to the suit or not, is liable to be asked or bound to answer any question tending to show that he or she is guilty of adultery, unless such witness has already given evidence in the same proceeding in disproof of his or her alleged adultery. R.S.O. 1960, c. 125, s. 10.

Evidence in proceedings in consequence of adultery

**11.** A husband is not compellable to disclose any communication made to him by his wife during the marriage, nor is a wife compellable to disclose any communication made to her by her husband during the marriage. R.S.O. 1960, c. 125, s. 11.

Communications made during marriage

**12.** Where it is intended by a party to examine as witnesses persons entitled, according to the law or practice, to give opinion evidence, not more than three of such witnesses may be called upon either side without the leave of the judge or other person presiding. R.S.O. 1960, c. 125, s. 12.

Expert evidence

**13.** The plaintiff in an action for breach of promise of marriage shall not recover unless his or her testimony is corroborated by some other material evidence in support of the promise. R.S.O. 1960, c. 125, s. 13.

Corroborative evidence, breach of promise

**14.** In an action by or against the heirs, next of kin, executors, administrators or assigns of a deceased person, an opposite or interested party shall not obtain a verdict, judgment or decision on his own evidence in respect of any matter occurring before the death of the deceased person, unless such evidence is corroborated by some other material evidence. R.S.O. 1960, c. 125, s. 14.

Actions by or against heirs, etc.

**15.** In an action by or against a mentally incompetent person so found, or a patient in a psychiatric facility, or a person who from unsoundness of mind is incapable of giving evidence, an opposite or interested party shall not obtain a verdict, judgment or decision on his own evidence, unless such evidence is corroborated by some other material evidence. R.S.O. 1960, c. 125, s. 15, *amended*.

Actions by or against persons under disability

**16.** An examination for discovery, or any part thereof, of an officer or servant of a corporation made under the rules of court may be used as evidence at the trial by any party adverse in interest to the corporation, subject to such protection to the corporation as the rules of court provide. R.S.O. 1960, c. 125, s. 16.

Use of examination for discovery of officer or servant of corporation at trial

**17.** Where an oath may be lawfully taken, it may be administered to a person while such person holds in his hand a copy of the Old or New Testament without requiring him to kiss the same, or,

Mode of administering oath



when he objects to being sworn in this manner or declares that the oath so administered is not binding upon his conscience, then in such manner and form and with such ceremonies as he declares to be binding. R.S.O. 1960, c. 125, s. 17.

Affirmation  
in lieu  
of oath

**18.**—(1) Where a person objects to being sworn from conscientious scruples, or on the ground of his religious belief, or on the ground that the taking of an oath would have no binding effect on his conscience, he may, in lieu of taking an oath, make an affirmation or declaration that is of the same force and effect as if he had taken an oath in the usual form.

Certifying  
affirmation

(2) Where the evidence is in the form of an affidavit or written deposition, the person before whom it is taken shall certify that the deponent satisfied him that he was a person entitled to affirm. R.S.O. 1960, c. 125, s. 18.

Evidence  
of child

**19.**—(1) In any legal proceeding where a child of tender years is offered as a witness and the child does not, in the opinion of the judge, justice or other presiding officer, understand the nature of an oath, the evidence of the child may be received though not given upon oath, if, in the opinion of the judge, justice or other presiding officer, as the case may be, the child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

Corrobor-  
ation

(2) No case shall be decided upon such evidence unless it is corroborated by some other material evidence. R.S.O. 1960, c. 125, s. 19.

Attendance  
of witnesses

**20.** A witness served in due time with a subpoena issued out of a court in Ontario, and paid his proper witness fees and conduct money, who makes default in obeying such subpoena, without any lawful and reasonable impediment, in addition to any penalty he may incur as for a contempt of court, is liable to an action on the part of the person by whom, or on whose behalf, he has been subpoenaed for any damage that such person may sustain or be put to by reason of such default. R.S.O. 1960, c. 125, s. 20.

[ *The following provisions were enacted by the Province of Canada as part of Chapter 9 of 1854. They were carried into the Consolidated Statutes of Canada, 1859 as sections 4-11 and 13 of Chapter 79. They have appeared in their present form in successive revisions since Confederation. See Rideout vs Rideout (1956) O.W.N. 644.* ]

Courts may  
issue sub-  
poenas to  
any part of  
Canada

4. If in any action or suit depending in any of Her Majesty's Superior Courts of Law or Equity in Canada, it appears to the Court, or when not sitting, it appears to any Judge of the Court that it is proper to compel the personal attendance at any trial or *enquête* or examination of witnesses, of any person who may not be within the jurisdiction of the Court in which the action or suit is pending, the Court or Judge, in their or his discretion, may order that a writ called a writ of *subpoena ad testificandum* or of *subpoena duces tecum* shall issue in special form, commanding such person to attend as a witness at such trial or *enquête* or examination of witnesses wherever he may be in Canada.

5. The service of any such writ or process in any part of Canada, shall be valid and effectual to all intents and purposes, as if the same had been served within the jurisdiction of the Court from which it has issued, according to the practice of such Court.

Service thereof in any part of Canada to be good

6. No such writ shall be issued in any case in which an action is pending for the same cause of action, in that section of the Province, whether Upper or Lower Canada respectively, within which such witness or witnesses may reside.

When not to be issued

7. Every such writ shall have at the foot, or in the margin thereof, a statement or notice that the same is issued by the special order of the Court or Judge making such order, and no such writ shall issue without such special order.

Writs to be specially noted

8. In case any person so served does not appear according to the exigency of such writ or process, the Court out of which the same issued, may, upon proof made of the service thereof, and of such default to the satisfaction of such Court, transmit a certificate of such default, under the seal of the same Court, to any of Her Majesty's Superior Courts of Law or Equity in that part of Canada in which the person so served may reside, being out of the jurisdiction of the Court transmitting such certificate, and the Court to which such certificate is sent, shall thereupon proceed against and punish such person so having made default, in like manner as they might have done if such person had neglected or refused to appear to a writ of subpoena or other similar process issued out of such last mentioned Court.

Consequences of disobedience

9. No such certificate of default shall be transmitted by any Court, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such subpoena or other similar process, unless it be made to appear to the Court transmitting and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate *per diem* and per mile allowed to witnesses by the law and practice of the Superior Court of Law within the jurisdiction of which such person was found, to defray the expenses of coming and attending to give evidence and of returning from giving evidence, had been tendered to such person at the time when the writ of subpoena, or other similar process was served upon him.

If expenses paid or tendered

10. The service of such writs of subpoena or other similar process, in Lower Canada, shall be proved by the certificate of a Bailiff within the jurisdiction where the service has been made, under his oath of office, and such service in Upper Canada by the affidavit of service endorsed on or annexed to such writ by the person who served the same.

How service proved

11. The costs of the attendance of any such witness shall not be taxed against the adverse party to such suit, beyond the amount that would have been allowed on a commission *rogatoire*, or to examine witnesses unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, so orders.

Costs of attendance provided for

13. Nothing herein contained shall affect the power of any Court to issue a commission for the examination of witnesses out of its jurisdiction, nor affect the admissibility of any evidence at any trial or proceeding, where such evidence is now by law receivable, on the ground of any witness being beyond the jurisdiction of the Court.

Power to issue commissions to examine witnesses preserved

**21.** A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the matter in question, without the writing being shown to him, but, if it is intended to contradict him by the writing, his attention shall, before such contradictory proof is given, be called to those parts of the writing that are to be used for the purpose of so contradicting him, and the judge or other person presiding at any time during the trial or proceeding may require the production of the writing for his inspection, and may thereupon make such use of it for the purposes of the trial or proceeding as he thinks fit. R.S.O. 1960, c. 125, s. 21.

Examination of witnesses, proof of contradictory written statements

Proof of contradictory oral statements

**22.** If a witness upon cross-examination as to a former statement made by him relative to the matter in question and inconsistent with his present testimony does not distinctly admit that he did make such statement, proof may be given that he did in fact make it, but before such proof is given the circumstances of the supposed statement sufficient to designate the particular occasion shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. R.S.O. 1960, c. 125, s. 22.

Proof of previous conviction of a witness

**23.—**(1) A witness may be asked whether he has been convicted of any crime, and upon being so asked, if he either denies the fact or refuses to answer, the conviction may be proved, and a certificate containing the substance and effect only, omitting the formal part, of the charge and of the conviction, purporting to be signed by the officer having the custody of the records of the court at which the offender was convicted, or by the deputy of the officer, is, upon proof of the identity of the witness as such convict, sufficient evidence of the conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate.

Fee

(2) For such certificate, a fee of \$1 and no more may be demanded or taken. R.S.O. 1960, c. 125, s. 23.

How far a party may discredit his own witness

**24.** A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may contradict him by other evidence, or, if the witness in the opinion of the judge or other person presiding proves adverse, such party may, by leave of the judge or other person presiding, prove that the witness made at some other time a statement inconsistent with his present testimony, but before such last-mentioned proof is given the circumstances of the proposed statement sufficient to designate the particular occasion shall be mentioned to the witness and he shall be asked whether or not he did make such statement. R.S.O. 1960, c. 125, s. 24.

Letters patent

**25.** Letters patent under the Great Seal of the United Kingdom, or of any other of Her Majesty's dominions, may be proved by the production of an exemplification thereof, or of the enrolment thereof, under the Great Seal under which such letters patent were issued, and such exemplification has the like force and effect for all purposes as the letters patent thereby exemplified or enrolled, as well against Her Majesty as against all other persons whomsoever. R.S.O. 1960, c. 125, s. 25.

Copies of statutes, etc.

**26.** Copies of statutes, official gazettes, ordinances, regulations, proclamations, journals, orders, appointments to office, notices thereof and other public documents purporting to be printed by or under the authority of the Parliament of the United

Kingdom, or of the Imperial Government or by or under the authority of the government or of any legislative body of any dominion, commonwealth, state, province, colony, territory or possession within the Queen's dominions, shall be admitted in evidence to prove the contents thereof. R.S.O. 1960, c. 125, s. 26.

**27.** *Prima facie* evidence of a proclamation, order, regulation or appointment to office made or issued, Proclamations, orders, etc.

- (a) by the Governor General or the Governor General in Council, or other chief executive officer or administrator of the Government of Canada; or
- (b) by or under the authority of a minister or head of a department of the Government of Canada or of a provincial or territorial government in Canada; or
- (c) by a Lieutenant Governor or Lieutenant Governor in Council or other chief executive officer or administrator of Ontario or of any other province or territory in Canada.

may be given by the production of,

- (d) a copy of the *Canada Gazette* or of the official gazette for a province or territory purporting to contain a notice of such proclamation, order, regulation or appointment; or
- (e) a copy of such proclamation, order, regulation or appointment purporting to be printed by the Queen's Printer or by the government printer for the province or territory; or
- (f) a copy of or extract from such proclamation, order, regulation or appointment purporting to be certified to be a true copy by such minister or head of a department or by the clerk, or assistant or acting clerk of the executive council or by the head of a department of the Government of Canada or of a provincial or territorial government or by his deputy or acting deputy. R.S.O. 1960, c. 125, s. 27.

**28.** An order in writing purporting to be signed by the Secretary of State of Canada and to be written by command of the Governor General shall be received in evidence as the order of the Governor General and an order in writing purporting to be signed by the Provincial Secretary and to be written by command of the Lieutenant Governor shall be received in evidence as the order of the Lieutenant Governor. R.S.O. 1960, c. 125, s. 28. Orders signed by Secretary of State or Provincial Secretary

**29.** Copies of proclamations and of official and other documents, notices and advertisements printed in the *Canada Gazette*, or in *The Ontario Gazette*, or in the official gazette of any province or territory in Canada are *prima facie* evidence of the originals and of the contents thereof. R.S.O. 1960, c. 125, s. 29. Notices in Gazette



Public  
or official  
documents

**30.** Where the original record could be received in evidence, a copy of an official or public document in Ontario, purporting to be certified under the hand of the proper officer, or the person in whose custody such official or public document is placed, or of a document, by-law, rule, regulation or proceeding, or of an entry in a register or other book of a corporation, created by charter or statute in Ontario, purporting to be certified under the seal of the corporation and the hand of the presiding officer or secretary thereof, is receivable in evidence without proof of the seal of the corporation, or of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof. R.S.O. 1960, c. 125, s. 30.

Privilege in  
case of  
official  
documents

**31.** Where a document is in the official possession, custody or power of a member of the Executive Council, or of the head of a department of the public service of Ontario, if the deputy head or other officer of the department has the document in his personal possession, and is called as a witness, he is entitled, acting herein by the direction and on behalf of such member of the Executive Council or head of the department, to object to producing the document on the ground that it is privileged, and such objection may be taken by him in the same manner, and has the same effect, as if such member of the Executive Council or head of the department were personally present and made the objection. R.S.O. 1960, c. 125, s. 31.

Entries in  
departmental  
books

**32.** A copy of an entry in a book of account kept in a department of the Government of Canada or of Ontario shall be received as *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of the department that such book was, at the time of the making of the entry, one of the ordinary books kept in the department, that the entry was apparently, and as the deponent believes, made in the usual and ordinary course of business of the department, and that such copy is a true copy thereof. R.S.O. 1960, c. 125, s. 32.

Copies of  
public books  
or  
documents

**33.—(1)** Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, a copy thereof or extract therefrom is admissible in evidence if it is proved that it is an examined copy or extract, or that it purports to be signed and certified as a true copy or extract by the officer to whose custody the original was entrusted.

Copies to be  
delivered if  
required

**(2)** Such officer shall furnish the certified copy or extract to any person applying for it at a reasonable time, upon his paying therefor a sum not exceeding 10 cents for every folio of 100 words. R.S.O. 1960, c. 125, s. 33.

**34.**—(1) In this section, “bank” means a bank to which the *Bank Act* (Canada) applies or the Province of Ontario Savings Office, and includes a branch, agency or office of any them.

Interpre-  
tation  
1966-67,  
c. 87 (Can.)

(2) Subject to this section, a copy of an entry in a book or record kept in a bank is in any action to which the bank is not a party *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded.

Copies of  
entries in  
books as  
*prima facie*  
evidence

(3) A copy of an entry in such book or record shall not be received in evidence under this section unless it is first proved that the book or record was at the time of making the entry one of the ordinary books or records of the bank, that the entry was made in the usual and ordinary course of business, that the book of record is in the custody or control of the bank, or its successor, and that such copy is a true copy thereof, and such proof may be given by the manager or accountant, or a former manager of the bank or its successor, and may be given orally or by affidavit.

Proof  
required as  
to entry in  
ordinary  
course of  
business

(4) A bank or officer of a bank is not, in an action to which the bank is not a party, compellable to produce any book or record the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court or a judge made for special cause.

Production  
of books to  
be required  
only under  
order

(5) On the application of a party to an action, the court or judge may order that such party be at liberty to inspect and take copies of any entries in the books or records of a bank for the purposes of such proceeding, but a person whose account is to be inspected shall be served with notice of the application at least two clear days before the hearing thereof, and, if it is shown to the satisfaction of the court or judge that such person cannot be notified personally, such notice may be given by addressing it to the bank.

Inspection  
of account

(6) The costs of an application to a court or judge under or for the purposes of this section, and the costs of any thing done or to be done under an order of a court or judge made under or for the purposes of this section, are in the discretion of the court or judge who may order such costs or any part thereof to be paid to a party by the bank, where such costs have been occasioned by a default or delay on the part of the bank, and any such order against a bank may be enforced as if the bank were a party to the proceeding. R.S.O. 1960, c. 125, s. 34.

Costs

**35.**—(1) In this section,

Interpre-  
tation

(a) “person” includes,

(i) the Government of Canada and of a province of Canada, and a department, commission, board or branch of any such government,

- (ii) a corporation, its successors and assigns, and
- (iii) the heirs, executors, administrators or other legal representatives of a person;

- (b) “photographic film” includes any photographic plate, microphotographic film and photostatic negative, and “photograph” has a corresponding meaning.

Admissible  
in evidence

(2) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement, document, plan or a record or book or entry therein kept or held by a person,

- (a) is photographed in the course of an established practice of such person of photographing objects of the same or a similar class in order to keep a permanent record thereof; and
- (b) is destroyed by or in the presence of such person or of one or more of his employees or delivered to another person in the ordinary course of business or lost,

a print from the photographic film is admissible in evidence in all cases and for all purposes for which the object photographed would have been admissible.

Court may  
refuse to  
admit in  
evidence

(3) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement or other executed or signed document was so destroyed before the expiration of six years from,

- (a) the date when in the ordinary course of business either the object or the matter to which it related ceased to be treated as current by the person having custody or control of the object; or
- (b) the date of receipt by the person having custody or control of the object of notice in writing of a claim in respect of the object or matter prior to the destruction of the object,

whichever is the later date, the court may refuse to admit in evidence under this section a print from a photographic film of the object.

Exception

(4) Where the photographic print is tendered by a government or the Bank of Canada, subsection 3 does not apply.

Proof of  
compliance  
with  
conditions

(5) Proof of compliance with the conditions prescribed by this section may be given by any person having knowledge of the facts either orally or by affidavit sworn before a notary public, and, unless the court otherwise orders, a notarial copy of any such affidavit is admissible in evidence in lieu of the original affidavit. R.S.O. 1960, c. 125, s. 35.

Interpre-  
tation

**36.**—(1) In this section,

- (a) “business” includes every kind of business, profession,

occupation, calling, operation or activity, whether carried on for profit or otherwise;

- (b) "record" includes any information that is recorded or stored by means of any device.

(2) Any writing or record made of any act, transaction, occurrence or event is admissible as evidence of such act, transaction, occurrence or event if made in the usual and ordinary course of any business and if it was in the usual and ordinary course of such business to make such writing or record at the time of such act, transaction, occurrence or event or within a reasonable time thereafter. 1966, c. 51, s. 1, *part*. Where business records admissible

(3) Subsection 2 does not apply unless the party tendering the writing or record has given at least seven days notice of his intention to all other parties in the action, and any party to the action is entitled to obtain from the person who has possession thereof production for inspection of the writing or record within five days after giving notice to produce the same. 1968, c. 36, s. 1. Notice and production

(4) The circumstances of the making of such a writing or record, including lack of personal knowledge by the maker, may be shown to affect its weight, but such circumstances do not affect its admissibility. Surrounding circumstances

(5) Nothing in this section affects the admissibility of any evidence that would be admissible apart from this section or makes admissible any writing or record that is privileged. 1966, c. 51, s. 1, *part*. Previous rules as to admissibility and privileged documents not affected

**37.**—(1) All courts, judges, justices, masters, clerks of courts, commissioners and other officers acting judicially, shall take judicial notice of the signature of any judge of any court in Canada, in Ontario and in every other province and territory in Canada, where his signature is appended or attached to a decree, order, certificate, affidavit, or judicial or official document. R.S.O. 1960, c. 125, s. 36 (1). Judicial notice to be taken of signatures of judges, etc.

(2) The members of the Canadian Transport Commission and of the Ontario Municipal Board, the Mining Commissioner under *The Mining Act* and a referee appointed under *The Drainage Act* shall be deemed judges for the purposes of this section. R.S.O. 1960, c. 125, s. 36 (2); 1968-69, c. 34, s. 1, *amended*. Interpretation  
R.S.O. 1970, cc. 274, 136

**38.** No proof is required of the handwriting or official position of a person certifying to the truth of a copy of or extract from any proclamation, order, regulation or appointment, or to any matter or thing as to which he is by law authorized or required to certify. R.S.O. 1960, c. 125, s. 37. Proof of handwriting, when not required



Foreign  
judgments,  
etc., how  
proved

**39.** A judgment, decree or other judicial proceeding recovered, made, had or taken in the Supreme Court of Judicature or in any court of record in England or Ireland or in any of the superior courts of law, equity or bankruptcy in Scotland, or in any court of record in Canada, or in any of the provinces or territories in Canada, or in any British colony or possession, or in any court of record of the United States of America, or of any state of the United States of America, may be proved by an exemplification of the same under the seal of the court without any proof of the authenticity of such seal or other proof whatever, in the same manner as a judgment, decree or other judicial proceeding of the Supreme Court in Ontario may be proved by an exemplification thereof. R.S.O. 1960, c. 125, s. 38.

Copies of  
notarial acts  
in Quebec  
admissible

**40.**—(1) A copy of a notarial act or instrument in writing made in Quebec before a notary and filed, enrolled or enregistered by such notary, certified by a notary or prothonotary to be a true copy of the original thereby certified to be in his possession as such notary or prothonotary, is receivable in evidence in the place and stead of the original, and has the same force and effect as the original would have if produced and proved.

How  
impeached

(2) The proof of such certified copy may be rebutted or set aside by proof that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may, by the law of Quebec, be taken before a notary, or be filed, enrolled or enregistered by a notary. R.S.O. 1960, c. 125, s. 39.

Protests  
of bills  
and notes

**41.** A protest of a bill of exchange or promissory note purporting to be under the hand of a notary public wherever made is *prima facie* evidence of the allegations and facts therein stated. R.S.O. 1960, c. 125, s. 40.

Effect of  
certain  
certificates  
of notaries

**42.** Any note, memorandum or certificate purporting to be made by a notary public in Canada, in his own handwriting or to be signed by him at the foot of or embodied in any protest, or in a regular register of official acts purporting to be kept by him is *prima facie* evidence of the fact of notice of non-acceptance or non-payment of a bill of exchange or promissory note having been sent or delivered at the time and in the manner stated in such note, certificate or memorandum. R.S.O. 1960, c. 125, s. 41.

Proving  
titles under  
small claims  
court  
executions

**43.** In proving a title under a sheriff's conveyance based upon an execution issued from a small claims court, it is sufficient to prove the judgment recovered in the small claims court without proof of any prior proceedings. R.S.O. 1960, c. 125, s. 42, *amended*.

**44.**—(1) Any person authorized to take declarations in Ontario may receive the solemn declaration of any person in attestation of the truth of any fact or of any account rendered in writing and, subject to subsection 2, the declaration and any declaration authorized or required by any Act of the Legislature shall be in the following form:

Solemn  
declaration

I, . . . . ., solemnly declare that (*state the fact or facts declared to*), and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me  
at the                      of  
this                      day of                      , 19                      .

A Commissioner, etc.

(2) A declaration made in the form prescribed by section 37 of the *Canada Evidence Act* shall be deemed to have been made in compliance with subsection 1. R.S.O. 1960, c. 125, s. 43.

Idem  
R.S.C. 1952,  
c. 307

**45.**—(1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made in or outside Ontario before a person who holds a commission as an officer in the Canadian Forces and is on full-time service is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario.

Oaths, etc.,  
administered  
by commis-  
sioned  
officers

(2) A document that purports to be signed by a person mentioned in subsection 1 in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him and on which his rank and unit are shown below his signature is admissible in evidence without proof of his signature or of his rank or unit or that he is on full-time service. R.S.O. 1960, c. 125, s. 44.

Admissibility

**46.**—(1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside Ontario before,

Oaths, etc.,  
administered  
outside  
Ontario

- (a) a judge;
- (b) a magistrate;
- (c) an officer of a court of justice;
- (d) a commissioner for taking affidavits or other competent authority of the like nature;
- (e) a notary public;
- (f) the head of a city, town, village, township or other municipality;

- (g) an officer of any of Her Majesty's diplomatic or consular services, including an ambassador, envoy, minister, charge d'affairs, counsellor, secretary, attache, consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul and acting consular agent;
- (h) an officer of the Canadian diplomatic, consular or representative services, including, in addition to the diplomatic and consular officers mentioned in clause *g*, a high commissioner, permanent delegate, acting high commissioner, acting permanent delegate, counsellor and secretary; or
- (i) a Canadian Government trade commissioner or assistant trade commissioner,

exercising his functions or having jurisdiction or authority as such in the place in which it is administered, sworn, affirmed or made, is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario.

Idem

(2) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside Ontario before a notary public for Ontario or before a commissioner for taking affidavits in Ontario is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario.

Admissibility

(3) A document that purports to be signed by a person mentioned in subsection 1 or 2 in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him, and on which his office is shown below his signature, and

- (a) in the case of a notary public, that purports to have impressed thereon or attached thereto his official seal;
- (b) in the case of a person mentioned in clause *f* of subsection 1, that purports to have impressed thereon or attached thereto the seal of the municipality;
- (c) in the case of a person mentioned in clause *g*, *h* or *i* of subsection 1, that purports to have impressed thereon or attached thereto his seal or the seal or stamp of his office or of the office to which he is attached,

is admissible in evidence without proof of his signature or of his office or official character or of the seal or stamp and without proof that he was exercising his functions or had jurisdiction or authority in the place in which the oath, affidavit, affirmation or statutory declaration was administered, sworn, affirmed or made. R.S.O. 1960, c. 125, s. 45.

**47.** No informality in the heading or other formal requisites to any affidavit, declaration or affirmation made or taken before a commissioner or other person authorized to take affidavits under *The Commissioners for taking Affidavits Act*, or under this Act, is any objection to its reception in evidence if the court or judge before whom it is tendered thinks proper to receive it. R.S.O. 1960, c. 125, s. 46.

Formal defects, when not to vitiate R.S.O. 1970, c. 72

**48.** Where an examination or deposition of a party or witness has been taken before a judge or other officer or person appointed to take it, copies of it, certified under the hand of the judge, officer or other person taking it, shall, without proof of the signature, be received and read in evidence, saving all just exceptions. R.S.O. 1960, c. 125, s. 47.

Admissibility of copies of depositions

**49.** In order to establish a devise or other testamentary disposition of or affecting real estate, probate of the will or letters of administration with the will annexed containing such devise or disposition, or a copy thereof, under the seal of the surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada, are *prima facie* evidence of the will and of its validity and contents. R.S.O. 1960, c. 125, s. 48.

Effect of probate, etc., as evidence of will, etc.

**50.**—(1) Where a person dies in any of Her Majesty's possessions outside Ontario having made a will sufficient to pass real estate in Ontario, purporting to devise, charge or affect real estate in Ontario, the party desiring to establish any such disposition, after giving one month's notice to the opposite party to the proceeding of his intentions so to do, may produce and file the probate of the will or letters of administration with the will annexed or a certified copy thereof under the seal of the court that granted the same with a certificate of the judge, registrar or clerk of such court that the original will is filed and remains in the court and purports to have been executed before two witnesses, and such probate or letters of administration or certified copy with such certificate is, unless the court otherwise orders, *prima facie* evidence of the will and of its validity and contents.

Proof in the case of will of real estate filed in courts outside Ontario

(2) The production of the certificate mentioned in subsection 1 is sufficient *prima facie* evidence of the facts therein stated and of the authority of the judge, registrar or clerk, without proof of his appointment, authority or signature. R.S.O. 1960, c. 125, s. 49.

Effect of certificate

**51.** The production of a certificate, purporting to be signed by an authority authorized in that behalf by the *National Defence Act* or by regulations made thereunder, stating that the person named in the certificate died, or was deemed to have died, on a

Military records R.S.C. 1952, c. 184



date set forth therein, is *prima facie* proof for any purpose to which the authority of the Legislature extends that the person so named died on that date, and also of the office, authority and signature of the person signing the certificate, without any proof of his appointment, authority or signature. R.S.O. 1960, c. 125, s. 50.

Medical  
reports

**52.**—(1) Any medical report obtained by or prepared for a party to an action and signed by a legally qualified medical practitioner licensed to practise in any part of Canada is, with the leave of the court and after at least seven days notice has been given to all other parties, admissible in evidence in the action.

Notice and  
production

(2) Unless otherwise ordered by the court, a party to an action is entitled to obtain the production for inspection of any report of which notice has been given under subsection 1 within five days after giving notice to produce the report.

Report  
required

(3) Except by leave of the judge presiding at the trial, a legally qualified medical practitioner who has medically examined any party to the action shall not give evidence at the trial touching upon such examination unless a report thereof has been given to all other parties in accordance with subsection 1.

Where  
doctor  
called  
unnec-  
essarily

(4) Where a legally qualified medical practitioner has been required to give evidence *viva voce* in an action and the court is of opinion that the evidence could have been produced as effectively by way of a medical report, the court may order the party that required the attendance of the medical practitioner to pay as costs therefor such sum as it considers appropriate. 1968, c. 36, s. 2, *amended*.

Interpre-  
tation  
R.S.O. 1970,  
c. 409  
Registered  
instrument  
as evidence

**53.**—(1) In this section, “instrument” has the meaning assigned to it in section 1 of *The Registry Act*.

(2) A copy of an instrument or memorial, certified under the hand and seal of office of the registrar or master of titles, in whose office it is deposited, filed, kept or registered, to be a true copy, is *prima facie* evidence of the original, except in the cases provided for in subsection 3.

Where cer-  
tified copies  
of registered  
instruments  
may be used

(3) Where it would be necessary to produce and prove an instrument or memorial that has been so deposited, filed, kept or registered in order to establish such instrument or memorial and the contents thereof, the party intending to prove it may give notice to the opposite party, at least ten days before the trial or other proceeding in which the proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence, as proof of the instrument or memorial, a copy thereof certified by the registrar or master of titles, under his hand and seal of office, and in every such case the copy so certified is sufficient evidence of the instrument or memorial and of its validity and contents

unless the party receiving the notice, within four days after such receipt, gives notice that he disputes its validity, in which case the costs of producing and proving it may be ordered to be paid by any or either of the parties as is considered just. R.S.O. 1960, c. 125, s. 51, *amended*.

**54.**—(1) Where a public officer produces upon a subpoena an original document, it shall not be deposited in court unless otherwise ordered, but, if the document or a copy is needed for subsequent reference or use, a copy thereof or of so much thereof as is considered necessary, certified under the hand of the officer producing the document or otherwise proved, shall be filed as an exhibit in the place of the original, and the officer is entitled to receive in addition to his ordinary fees the fees for any certified copy, to be paid to him before it is delivered or filed.

Filing copies  
of official  
documents

(2) Where an order is made that the original be retained, the order shall be delivered to the public officer and the exhibit shall be retained in court and filed. R.S.O. 1960, c. 125, s. 52.

When  
original to  
be retained

**55.**—(1) A party intending to prove the original of a telegram, letter, shipping bill, bill of lading, delivery order, receipt, account or other written instrument used in business or other transactions, may give notice to the opposite party, ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends to give in evidence as proof of the contents a writing purporting to be a copy of the documents, and in the notice shall name some convenient time and place for the inspection thereof.

Proof of  
certain  
written  
instruments

(2) Such copy may then be inspected by the opposite party, and is without further proof sufficient evidence of the contents of the original document, and shall be accepted and taken in lieu of the original, unless the party receiving the notice within four days after the time mentioned for such inspection gives notice that he intends to dispute the correctness or genuineness of the copy at the trial or proceeding, and to require proof of the original, and the costs attending any production or proof of the original document are in the discretion of the court. R.S.O. 1960, c. 125, s. 53.

Inspection

**56.** It is not necessary to prove, by the attesting witness, an instrument to the validity of which attestation is not requisite. R.S.O. 1960, c. 125, s. 54.

Where no  
attestation  
required

**57.** Comparison of a disputed writing with a writing proved to the satisfaction of the court to be genuine shall be permitted to be made by a witness, and such writings and the evidence of witnesses respecting them may be submitted to the court or jury as evidence of the genuineness or otherwise of the writing in dispute. R.S.O. 1960, c. 125, s. 55.

Comparison  
of disputed  
writing  
with  
genuine

Where instruments offered in evidence may be impounded

**58.** Where a document is received in evidence, the court admitting it may direct that it be impounded and kept in such custody for such period and subject to such conditions as seem proper, or until the further order of the court or of the Supreme Court or of a judge thereof or of a county or district court, as the case may be. R.S.O. 1960, c. 125, s. 56.

Evidence dispensed with under R.S.O. 1970, c. 478

**59.** It is not necessary in an action to produce any evidence that, by section 1 of *The Vendors and Purchasers Act*, is dispensed with as between vendor and purchaser, and the evidence declared to be sufficient as between vendor and purchaser is *prima facie* sufficient for the purposes of the action. R.S.O. 1960, c. 125, s. 57.

Evidence for foreign tribunals

**60.**—(1) Where it is made to appear to the Supreme Court or a judge thereof, or to a judge of a county or district court, that a court or tribunal of competent jurisdiction in a foreign country has duly authorized, by commission, order or other process, the obtaining of the testimony in or in relation to an action, suit or proceeding pending in or before such foreign court or tribunal, of a witness out of the jurisdiction thereof and within the jurisdiction of the court or judge so applied to, such court or judge may order the examination of such witness before the person appointed, and in the manner and form directed by the commission, order or other process, and may, by the same or by a subsequent order, command the attendance of a person named therein for the purpose of being examined, or the production of a writing or other document or thing mentioned in the order, and may give all such directions as to the time and place of the examination, and all other matters connected therewith as seem proper, and the order may be enforced, and any disobedience thereto punished, in like manner as in the case of an order made by the same court or judge in an action pending in such court or before such judge.

Payment of expenses of witness

(2) A person whose attendance is so ordered is entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in the Supreme Court.

Right of refusal to answer questions and to produce documents

(3) A person examined under such commission, order or process has the like right to object to answer questions tending to criminate himself, and to refuse to answer any questions that, in an action pending in the court by which or by a judge whereof or before the judge by whom the order for examination was made, the witness would be entitled to object or to refuse to answer, and no person shall be compelled to produce at the examination any writing, document or thing that he could not be compelled to produce at the trial of such an action.

Administration of oath

(4) Where the commission, order or other process, or the instructions of the court accompanying the same, direct that the person to be examined shall be sworn or shall affirm, the person so appointed has authority to administer the oath to him or take his affirmation. R.S.O. 1960, c. 125, s. 58.

## CHAPTER 152

### The Execution Act

**1.** In this Act,

Interpre-  
tation

- (a) “execution” includes a writ of *fieri facias* and every subsequent writ for giving effect thereto;
- (b) “sheriff” includes an officer to whom an execution is directed. R.S.O. 1960, c. 126, s. 1.

**2.** The following chattels are exempt from seizure under any writ issued out of any court: Exemptions

- 1. Necessary and ordinary wearing apparel of the debtor and his family not exceeding \$1,000 in value.
- 2. The household furniture, utensils, equipment, food and fuel that are contained in and form part of the permanent home of the debtor not exceeding \$2,000 in value.
- 3. In the case of a debtor other than a person engaged solely in the tillage of the soil or farming, tools and instruments and other chattels ordinarily used by the debtor in his business, profession or calling not exceeding \$2,000 in value.
- 4. In the case of a person engaged solely in the tillage of the soil or farming, the live stock, fowl, bees, books, tools and implements and other chattels ordinarily used by the debtor in his business or calling not exceeding \$5,000 in value.
- 5. In the case of a person engaged solely in the tillage of the soil or farming, sufficient seed to seed all his land under cultivation, not exceeding 100 acres, as selected by the debtor, and fourteen bushels of potatoes, and, where seizure is made between the 1st day of October and the 30th day of April, such food and bedding as are necessary to feed and bed the live stock and fowl that are exempt under this section until the 30th day of April next following. 1967, c. 26, s. 1, *part*.

**3.—**(1) Where exemption is claimed for a chattel referred to in paragraph 3 of section 2 that has a sale value in excess of \$2,000 plus the costs of the sale and other chattels are not available for seizure and sale, the chattel is subject to seizure and sale under a writ of execution and \$2,000 shall be paid to the debtor out of the proceeds of the sale.

Sale and  
refund of  
amount of  
exemption



Idem

(2) The debtor may, in lieu of the chattels referred to in paragraph 4 of section 2, elect to receive the proceeds of the sale thereof up to \$5,000, in which case the officer executing the writ shall pay the net proceeds of the sale if they do not exceed \$5,000 or, if they exceed \$5,000, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under that paragraph. 1967, c. 26, s. 1, *part*.

Money  
derived  
from sale  
of exempted  
goods

**4.** The sum to which a debtor is entitled under subsection 1 or 2 of section 3 is exempt from attachment or seizure at the instance of a creditor. 1967, c. 26, s. 1, *part*.

Disposal of  
exempted  
goods after  
death of the  
debtor

**5.** Chattels exempt from seizure are, after the death of the debtor, exempt from the claims of his creditors, and his widow is entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor is entitled to them. R.S.O. 1960, c. 126, s. 5.

Right of  
selection

**6.** The debtor, his widow or family, or, in the case of infants, their guardian, may select out of any larger number the chattels exempt from seizure. R.S.O. 1960, c. 126, s. 6.

Articles  
for which  
debt  
contracted

**7.—(1)** The exemptions prescribed in this Act do not apply to exempt any chattel from seizure to satisfy a debt contracted for the purchase of such chattel, except beds, bedding and bedsteads, including cradles in ordinary use by the debtor and his family and the necessary and ordinary wearing apparel of the debtor and his family.

Debt for  
maintenance

(2) The exemptions prescribed in this Act do not apply to exempt any article from seizure to satisfy a debt for maintenance of a spouse or former spouse or of a child, except tools, instruments and chattels ordinarily used by the debtor in his business, profession or calling.

Chattels  
purchased  
to defeat  
creditors

(3) The exemptions prescribed in this Act do not apply to chattels purchased for the purpose of defeating claims of creditors.

No exemp-  
tion for  
corporations

(4) The exemptions prescribed in this Act are not available to a corporate debtor.

Exemptions  
bind Crown

(5) The exemptions prescribed in this Act bind the Crown. 1967, c. 26, s. 2, *part*.

Disputes

**8.—(1)** Where a dispute arises as to,

- (a) whether or not a chattel is eligible for exemption from seizure under sections 2 to 7; or
- (b) whether or not chattels claimed to be exempt exceed the value of the exemption prescribed by section 2,

the debtor or creditor may apply to the county or district court of the county or district in which the chattel is located for the determination of the question, and the court shall determine the question after a hearing upon such notice to such persons as the court directs.

(2) A sheriff may apply to the county or district court of the county or district of which he is the sheriff for direction on any matter arising under sections 2 to 7. 1967, c. 26, s. 2, *part*.

Application  
by sheriff  
for  
direction

**9.** The sheriff to whom a writ of execution against lands is delivered for execution may seize and sell thereunder the lands of the execution debtor, including any lands whereof any other person is seized or possessed in trust for the execution debtor and including any interest of the execution debtor in lands held in joint tenancy. R.S.O. 1960, c. 126, s. 8.

Sheriff may  
sell any  
lands of  
execution  
debtor

**10.**—(1) Subject to *The Land Titles Act* and to section 11, a writ of execution binds the goods and lands against which it is issued from the time of the delivery thereof to the sheriff for execution, but save as to bills of sale and chattel mortgages, no writ of execution against goods prejudices the title to such goods acquired by a person in good faith and for valuable consideration unless such person had, at the time when he acquired his title, notice that such writ or any other writ by virtue of which the goods of the execution debtor might be seized or attached has been delivered to the sheriff and remains in his hands unexecuted. R.S.O. 1960, c. 126, s. 9 (1); 1960-61, c. 25, s. 1.

Writs  
against  
lands and  
goods  
R.S.O. 1970,  
c. 234

(2) The sheriff shall, upon the receipt of the writ and without fee, endorse thereon the day of the year, the month, the hour and the minute when it was received.

Endorse-  
ment

(3) Subsection 1 does not apply to an execution against goods issued out of a small claims court, which binds only from the time of the seizure. R.S.O. 1960, c. 126, s. 9 (2, 3), *amended*.

Execution  
issued out  
of small claims  
court

**11.**—(1) Where the name of an execution debtor set out in a writ of execution is not that of a corporation or the firm name of a partnership, the writ does not bind the lands of the execution debtor unless,

Writ not to  
bind lands  
unless name  
of debtor  
sufficient

(a) the name of the execution debtor set out in the writ includes at least one given name in full; or

(b) a statutory declaration of the execution creditor or his solicitor is filed with the sheriff identifying the execution debtor by at least one given name in full.

(2) Subject to subsection 3, where a statutory declaration is filed under clause *b* of subsection 1, the name of the execution debtor set out in the writ shall be deemed to contain the given

When writ  
binds land

names affirmed in the declaration and the writ binds land from the time the declaration is filed.

Transmission  
to  
land titles  
office  
R.S.O. 1970,  
c. 234

(3) Where a statutory declaration is filed under clause *b* of subsection 1 in respect of a writ of execution of which a copy has been transmitted to the proper master of titles under section 153 of *The Land Titles Act*, the sheriff shall transmit a copy of the declaration to the proper master of titles and the writ does not bind land registered under *The Land Titles Act* until the copy of the declaration has been received by the proper master of titles. 1960-61, c. 25, s. 2 (1), *part*.

Notice to  
land titles  
office of  
withdrawal  
of writ of  
execution

**12.** Where a writ of execution or renewal thereof of which a copy was transmitted to the proper master of titles under section 153 of *The Land Titles Act* is withdrawn, the sheriff shall forthwith transmit to the proper master of titles a certificate under his hand stating that the writ has been withdrawn. 1960-61, c. 25, s. 2 (1), *part*.

Liability of  
land to  
execution  
R.S.O. 1970,  
c. 228

**13.** Subject to *The Judicature Act* and the rules of court, land and other hereditaments and real estate belonging to any person indebted are liable to and chargeable with all just debts, duties and demands of whatsoever nature or kind owing by any such person to Her Majesty or to any of her subjects and are assets for the satisfaction thereof and are subject to the like remedies, proceedings and process for seizing, selling or disposing of them towards the satisfaction of such debts, duties and demands, and in like manner as personal estate is seized, sold or disposed of. R.S.O. 1960, c. 126, s. 10.

Seizure of  
shares and  
dividends  
under  
execution

**14.—**(1) Shares and dividends and any equitable or other right, property, interest or equity of redemption in or in respect of shares or dividends in a chartered bank or a corporation having transferable shares shall be deemed to be personal property found in the place where notice of the seizure thereof is served, and may be seized under execution and sold thereunder in like manner as other personal property.

Notice of  
seizure

(2) The sheriff on being informed on behalf of the execution creditor that the execution debtor has such shares, and on being required to seize them, shall forthwith serve a copy of the execution on the bank or corporation with a notice that all the shares of the execution debtor are seized thereunder, and from the time of service the seizure shall be deemed to be made and no transfer of the shares by the execution debtor is valid unless and until the seizure has been discharged, and every seizure and sale made under the execution shall include all dividends, premiums, bonuses or other pecuniary profits upon the shares seized, and they shall not, after notice as aforesaid, be paid by the bank or corporation to anyone except the person to whom the shares have been sold.

(3) Such seizure may be made and notice given by the sheriff where the bank or corporation has within his bailiwick a place at which service of process may be made, or where a share register is kept.

How  
seizure  
made

(4) If the bank or corporation has more than one place where service of process may be made, and there is some place where transfers of shares may be notified to and entered by the bank or corporation, so as to be valid as regards the bank or corporation, or where dividends or profits as aforesaid on stock may be paid other than the place where service of such notice has been made, the notice does not affect any transfer or payment of dividends or profits duly made and entered at any such other place, so as to subject the bank or corporation to pay twice, or so as to affect the rights of a *bona fide* purchaser, until after the expiration of a period from the time of service sufficient for the transmission of notice of service by post from the place where it has been made to such other place, which notice it is the duty of the bank or corporation to so transmit.

Provisions  
for the case  
of more  
than one  
place of  
service

(5) Where any such share is sold, the sheriff shall within ten days after the sale serve upon the bank or corporation at a place where service of process may be made a copy of the execution with his certificate endorsed thereon certifying the sale and the name of the purchaser who shall have the same rights and be under the same obligations as if he had purchased the share from the execution debtor at the time of the service of notice under subsection 2.

Mode of  
proceeding  
after sale

(6) Nothing in this Act affects any remedy that the execution creditor might, without this Act, have had against any such share or the dividends, premiums, bonuses or other pecuniary profits in respect thereof, and subsections 1 to 4 apply to such remedy in so far as they can be applied thereto. R.S.O. 1960, c. 126, s. 11.

Saving of  
all other  
remedies

**15.** If a sheriff seizes the shares of an execution debtor in a private company, he shall first offer them for sale to the other shareholders or any one of them in such private company, and if none of them will purchase the shares for a reasonable price, the sheriff may then offer the debtor's interest therein for sale to the public generally and sell and convey to the highest bidder. R.S.O. 1960, c. 126, s. 12.

Seizure and  
sale of  
shares in  
private  
company

**16.** The procedure for seizure and sale in the case of an equitable or other right, property, interest or equity of redemption in or in respect of a share shall be the same as hereinbefore provided in the case of shares and dividends, and the same shall be held to be personal property found in the place where notice of the seizure is served. R.S.O. 1960, c. 126, s. 13.

Procedure  
for sale of  
equitable  
interests



Rights under  
patent of  
invention

**17.**—(1) All rights under letters patent of invention and any equitable or other right, property, interest or equity of redemption therein shall be deemed to be personal property and may be seized and sold under execution in like manner as other personal property.

How  
seizable

(2) Such seizure and sale may be made by the sheriff of any county or district having in his hands to be executed an execution against the property of the debtor who is the owner of or interested in the letters patent.

Notice of  
seizure

(3) Notice of the seizure shall forthwith be sent to the Patent Office, Ottawa, and the interest of the debtor shall be bound from the time when the notice is received there. R.S.O. 1960, c. 126, s. 14.

Seizure and  
sale of rights  
chattels,  
etc.

**18.** The sheriff may seize and sell any equitable or other right, property, interest or equity of redemption in or in respect of any goods, chattels or personal property, including leasehold interests in any land of the execution debtor, and, except where the sale is under an execution against goods issued out of a small claims court, the sale conveys whatever equitable or other right, property, interest or equity of redemption he had or was entitled to in or in respect of the goods, chattels or personal property at the time of the delivery of the execution to the sheriff for execution, and, where the sale is under an execution against goods issued out of a small claims court, the sale conveys whatever equitable or other right, property, interest or equity of redemption the debtor had or was entitled to in or in respect of the goods, chattels or personal property at the time of the seizure. R.S.O. 1960, c. 126, s. 15.

Money and  
securities  
for money

R.S.O. 1970,  
c. 97

**19.**—(1) The sheriff shall seize any money or banknotes, including any surplus of a former execution against the debtor, and any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money belonging to the person against whom the execution has been issued, and, subject to *The Creditors' Relief Act*, shall pay or deliver to the party who sued out the execution the money or banknotes so seized, or a sufficient part thereof, and hold such cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money as security for the amount directed to be levied, or so much thereof as has not been otherwise levied or raised, and the sheriff may sue in his own name for the recovery of the sums secured thereby.

Book debts  
and choses  
in action

(2) The sheriff may seize any book debts and other choses in action of the execution debtor and may sue in his own name for the recovery of the moneys payable in respect thereof.

Sale by  
sheriff

(3) If it appears to the sheriff that an attempt to collect the book debts, choses in action or the securities for the money referred to in subsections 1 and 2 would be less beneficial to the

creditors than a sale thereof, the sheriff may proceed to sell such book debts, choses in action and securities by public auction in the same manner as the debtor's goods may be sold when taken in execution.

(4) The payment to the sheriff by the person liable on such cheque, bill of exchange, promissory note, bond, mortgage, specialty or other security, with or without suit, or recovery from him, discharges him to the extent of such payment or recovery from his liability thereon.

Effect of  
payment  
to sheriff

(5) Subject to *The Creditor's Relief Act*, the sheriff shall pay over to the party who sued out the execution the money so paid or recovered, or a sufficient sum to discharge the amount directed to be levied, and if, after satisfaction thereof and of the fees, poundage and expenses of the sheriff, a surplus remains, it shall be paid to the party against whom the execution issued.

Payment of  
proceeds  
R.S.O. 1970,  
c. 97

(6) A sheriff is not bound to sue any person liable upon such cheque, bill of exchange, promissory note, bond, mortgage, specialty or other security unless the party who sued out the execution enters into a bond with two sufficient sureties to indemnify the sheriff against all costs and expenses to be incurred in the prosecution of the action, or to which he may become liable in consequence thereof, and the expenses of the bond, not exceeding \$5, may be deducted from any money recovered in the action. R.S.O. 1960, c. 126, s. 16.

Indemnity  
of sheriff

**20.**—(1) A sheriff is not, without written instructions and a bond as hereinafter mentioned, obliged to seize property in the possession of a third person claiming it and not in the possession of the debtor against whose property the execution was issued.

When sheriff  
obliged to  
seize goods  
claimed by  
third parties

(2) The instructions shall specify the property in such a way as to enable the sheriff to identify it.

Instructions

(3) The bond shall be a bond of indemnity to the sheriff and his assigns, with two sufficient sureties who shall justify in double the value of the property, and the value shall be stated in an affidavit by the creditor or his solicitor or agent attached to the bond.

Bond

(4) The bond shall be assignable to the claimant, and shall be conditioned that the persons executing it shall be liable for the damages, costs and expenses that the sheriff or the claimant may be put to by the seizure and subsequent proceedings, including interpleader proceedings, if any, and which he does not recover from other persons who ought to pay them.

Conditions  
of bond

(5) If the sheriff is not satisfied with the bond offered, the matter in difference shall be determined by a judge of the county or district court of the county or district.

Settlement  
by judge

(6) Nothing in this section limits the right of the sheriff to apply for relief by interpleader. R.S.O. 1960, c. 126, s. 17.

Right of  
sheriff to  
interpleader

Taking  
money  
secured by  
mortgage  
under  
execution

**21.**—(1) If a sheriff is informed on behalf of the execution creditor that the execution debtor is a mortgagee of land and that the mortgage is registered, or that he is entitled to receive a sum of money charged upon land by virtue of a registered instrument, and, if the sheriff is required on behalf of the execution creditor to seize the mortgage or charge and is furnished in writing with the information necessary to enable him to give the notice hereinafter mentioned, he shall, upon payment of the proper fees, forthwith deliver or transmit to the registrar or master of titles in whose office the mortgage or other instrument is registered, who shall forthwith register it, a notice in the form or to the effect following:

Form of  
sheriff's  
notice to  
registrar

To the Registrar of . . . . . (or as the case may be)

By virtue of an execution issued out of the Supreme Court of Ontario . . . . . (or as the case may be) whereby I am commanded to levy of the goods and chattels of A. B. \$ . . . . . for debt, and \$ . . . . . for costs lately adjudged to be paid by A. B. to C. D., besides the costs of execution, I have this day seized and taken in execution all the estate, right, title and interest of A. B. in a mortgage made by X. Y. to A. B., bearing date the . . . . . day of . . . . ., 19 . . . . ., and registered in the registry office for the County of . . . . . (or as the case may be) on the . . . . . day of . . . . ., 19 . . . . ., as number . . . . . (or the said mortgage or other instrument may be described in any other manner by reference to dates, parties and the land covered as will enable the notice to be registered against the land therein described) and in the money secured thereby, and this notice is given for the purpose of binding the interest of A. B. under sections 21 to 25 of *The Execution Act*.

Dated this . . . . . day of . . . . ., 19 . . . . .

(Signed) . . . . .  
Sheriff of the County (or District) of . . . . .

Effect of  
registration  
of sheriff's  
notice to  
registrar

(2) Upon registration of the notice, the interest of the execution debtor in the mortgage or other instrument and in the land therein described and in the money thereby secured and in all covenants and stipulations for securing payment thereof is bound by the execution, and such registration is notice of the execution and seizure to all persons who may thereafter in any way acquire an interest in the mortgage, land, money or covenants, and the rights of the sheriff and of the execution creditor have priority over the rights of all such persons subject, as regards the mortgagor or person liable to pay the money secured by the mortgage or charge, to section 22. R.S.O. 1960, c. 126, s. 18.

Notice to  
mortgagor

**22.**—(1) A notice similar to that mentioned in section 21 shall also be served upon the mortgagor or the person who is liable to pay the money secured by the registered instrument, and after such service the person served shall pay to the sheriff all money then payable and, as it becomes due, all money that may become payable to the execution debtor so far as may be necessary to satisfy the execution.

(2) Service of the notice may be made personally, or by leaving it at the dwelling-house of the person to be served with a grown-up person residing there, or by registered mail to the proper address of the person to be served.

Mode of  
effecting  
service

(3) Any payment made after service of the notice or after actual knowledge of the seizure is void as against the sheriff and the execution creditor. R.S.O. 1960, c. 126, s. 19.

Payments  
made after  
notice

**23.** In addition to the remedies provided in this Act, the sheriff may bring an action on any mortgage or other instrument seized under this Act for the sale or foreclosure of the land covered by it, and is entitled to a bond of indemnity as in the cases provided for in subsection 6 of section 19. R.S.O. 1960, c. 126, s. 20.

Sheriff  
enforcing  
mortgage

**24.—**(1) Upon an execution, notice whereof is registered under section 21, expiring or being satisfied, set aside or withdrawn, a certificate of such fact shall be given by the sheriff or by the execution creditor, and it or the order to set aside, as the case may be, may be registered, and thereupon the seizure is vacated and at an end.

When  
seizure may  
be vacated

(2) The order or the certificate of the sheriff does not require verification.

Verification  
of order and  
certificates

(3) The certificate of the execution creditor shall be verified by the oath of a subscribing witness as in the case of other instruments affecting land. R.S.O. 1960, c. 126, s. 21.

Idem

**25.** For every notice of seizure under section 21, the sheriff is entitled to a fee of \$1, and for every certificate under section 24 to a fee of 75 cents. R.S.O. 1960, c. 126, s. 22; 1962-63, c. 42, s. 1.

Fees of  
registrar  
and sheriff

**26.** Where an execution debtor is a mortgagee of chattels and the mortgage is registered as required by law, sections 21 to 25 are applicable, except that the notice to be given by the sheriff shall be delivered or transmitted to the clerk of the county or district court or other officer in whose office the chattel mortgage is registered. R.S.O. 1960, c. 126, s. 23.

Taking  
chattel  
mortgage in  
execution

**27.—**(1) Where the word “mortgagor” occurs in this section, it shall be read and construed as if the words “his heirs, executors, administrators or assigns, or person having the equity of redemption” were inserted immediately after the word “mortgagor”.

Interpre-  
tation

(2) The sheriff to whom an execution against the lands and tenements of a mortgagor is directed may seize, sell and convey all the interest of the mortgagor in any mortgaged lands and tenements.

Interest  
of a  
mortgagor

(3) The equity of redemption in freehold land is saleable under an execution against the lands and tenements of the owner of the

Equity of  
redemption



equity of redemption in his lifetime, or in the hands of his executors or administrators after his death, subject to the mortgage, in the same manner as land and tenements may now be sold under an execution.

Selling lands  
subject to  
more than  
one mort-  
gage in  
execution

(4) Where more mortgages than one of the same lands have been made to the same mortgagee or to different mortgagees, subsections 2 and 3 apply, and the equity of redemption is saleable under an execution against the lands and tenements of the owner, subject to the mortgages, in the same manner as in the case of land subject to one mortgage only.

Effect of  
sale

(5) The effect of the seizure or taking in execution, sale and conveyance of mortgaged lands and tenements is to vest in the purchaser, his heirs and assigns, all the interest of the mortgagor therein at the time the execution was placed in the hands of the sheriff, as well as at the time of the sale, and to vest in the purchaser, his heirs and assigns, the same rights as the mortgagor would have had if the sale had not taken place, and the purchaser, his heirs or assigns, may pay, remove or satisfy any mortgage, charge or lien that at the time of the sale existed upon the lands or tenements so sold in like manner as the mortgagor might have done, and thereupon the purchaser, his heirs and assigns, acquire the same estate, right and title as the mortgagor would have acquired in case the payment, removal or satisfaction had been effected by the mortgagor.

Effect of  
purchase by  
mortgagee or  
execution  
creditor

(6) A mortgagee of land, or the executors, administrators or assigns of a mortgagee, being or not being the execution creditor, may be the purchaser at the sale and acquire the same estate, interest and rights thereby as any other purchaser, but in that event he or they shall give to the mortgagor a release of the mortgage debt, and if another person becomes the purchaser, and, if the mortgagee, his executors, administrators or assigns enforce payment of the mortgage debt by the mortgagor, the purchaser shall repay the debt and interest to the mortgagor, and, in default of payment thereof within one month after demand, the mortgagor may recover the debt and interest from the purchaser, and has a charge therefor upon the mortgaged land. R.S.O. 1960, c. 126, s. 24.

Contingent  
interests  
liable to  
execution  
R.S.O. 1970,  
c. 85

**28.**—(1) Any estate, right, title or interest in land which, under section 10 of *The Conveyancing and Law of Property Act*, may be conveyed or assigned by any person, or over which he has any disposing power that he may, without the assent of any other person, exercise for his own benefit, is liable to seizure and sale under execution against such person in like manner and on like conditions as land is by law liable to seizure and sale under execution, and the sheriff selling it may convey and assign it to the purchaser in the same manner and with the same effect as the person might himself have done.

(2) An inchoate right to dower is not liable to seizure or sale under execution.

Except inchoate right to dower

(3) Property over which a deceased person had a general power of appointment exercisable for his own benefit without the assent of any other person where it is appointed by his will may be seized and sold under an execution against the personal representative of such deceased person after the property of the deceased has been exhausted. R.S.O. 1960, c. 126, s. 25.

Property subject to power of appointment

**29.**—(1) The interest of a person derived by deed, lease or licence in writing from the churchwardens or other authorities of any church in a pew or sitting, if the interest is assignable by the holder thereof, may be sold under execution at the suit of the churchwardens or other authorities for arrears of rent or other charges to which the pew or sitting is subject, or which the holder thereof may have agreed to pay or for which he may be liable, or at the suit of any creditor of such holder, and the churchwardens or other authorities may become purchasers at such sale on behalf of the church, and may relet or sell the right so acquired.

Interest in pew or sitting

(2) The sheriff may execute a deed to the purchaser of the interest so sold, and the churchwardens or other authorities shall, on production of the deed, give effect to it upon payment of any arrears of rent or charge then due.

Deed

(3) Such sale is subject to any continuing rent or charge of such pew or sitting previously stipulated for or imposed, and does not prejudice the right to impose increased rent or charges on such pew or sitting pursuant to any law or custom. R.S.O. 1960, c. 126, s. 26.

Saving

**30.** The title and interest of a testator or intestate in land may be seized and sold under an execution upon a judgment recovered by a creditor of the testator or intestate against his executor or administrator in the same manner and under the same process as upon a judgment against the deceased if he were living. R.S.O. 1960, c. 126, s. 27.

How execution enforceable against executor, etc.

**31.**—(1) An execution against a municipal corporation may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings thereon shall then be the following:

Executions against municipal corporations

1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer of the municipal corporation, or leave such copy at the office or dwelling-place of that officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including the interest calculated to some day as near as is convenient to the day of the service.

Statement of claim to treasurer

When sheriff  
to strike  
rate

2. If the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment roll of the municipality and shall, in like manner as rates are struck for general municipal purposes, strike a rate sufficient in the dollar to cover the amount due on the execution, with such addition as the sheriff considers sufficient to cover the interest up to the time when the rate will probably be available, and his own fees and poundage.

Sheriff's  
precept to  
collector,  
etc., to levy  
rate

3. The sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the corporation, and shall annex to the precept the roll of such rate, and shall, by the precept after reciting the writ and that the corporation has neglected to satisfy it and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect to the general annual rates.

Rate rolls

4. If, at the time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year, he shall add a column thereto headed "Execution rate in A.B. *vs.* The Township of . . . . .", adding a similar column for each execution if more than one, and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon.

Surplus

5. The sheriff shall, after satisfying the execution and all the fees and poundage thereon, pay any surplus, within ten days after receiving it, to the treasurer of the municipal corporation.

Functions of  
clerk, assess-  
sors and  
collectors

(2) The clerk, assessor and collector of the corporation shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect, the provisions of this Act with respect to such execution, be deemed to be officers of the court out of which the writ issued, and as such are amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. R.S.O. 1960, c. 126, s. 28.

Jurisdiction  
of sheriff  
on  
annexation

**32.**—(1) Where an area of land in a county or provisional judicial district is annexed for judicial purposes to an adjoining county or provisional judicial district.

- (a) all writs of execution in the hands of the sheriff of the county or provisional judicial district to which the area is annexed at the time of the annexation bind the land in the annexed area from that time, subject to section 153 of *The Land Titles Act*; and

R.S.O. 1970,  
c. 234

- (b) the annexed area shall be deemed to remain in the bailiwick of the sheriff of the county or provisional judicial district of which it was formerly a part in respect of each writ of execution in his hands at the time of the annexation until its withdrawal, expiry or renewal, as the case may be.

(2) No steps shall be taken by either sheriff referred to in subsection 1 to seize and sell real or personal property of a debtor in the annexed area under a writ of execution, until he has notified the other sheriff of his intention to do so, and the sheriff so notified shall forward to the sheriff executing the writ a certified copy of each writ of execution against the debtor,

Levy  
against  
land in  
annexed  
area

- (a) in his hands, where the sheriff notified is the sheriff of the county or provisional judicial district to which the area is annexed; or

- (b) in his hands at the time of the annexation and not thereafter withdrawn, expired or renewed, where the sheriff notified is the sheriff of the county or provisional judicial district of which the annexed area was formerly a part.

(3) Where a certified copy of a writ of execution is received by a sheriff under subsection 2, the copy shall be deemed to be a writ of execution directed to the sheriff receiving it and filed by the creditor named therein on the day of its receipt.

Filing of  
writs of  
execution  
before sale

(4) This section applies to liens for bail under *The Bail Act* against land in the annexed area to which *The Registry Act* applies in the same manner as if the certificates of lien for bail were writs of execution, except that a lien of which a certificate was delivered to the sheriff of the county or provisional judicial district of which the annexed area was formerly part shall expire three years after the annexation takes effect unless it is sooner discharged or a certificate thereof is delivered to the sheriff in whose bailiwick the land is situate. 1967, c. 26, s. 3 (1).

Liens  
for bail  
R.S.O. 1970,  
cc. 37, 409





CHAPTER 153

The Executive Council Act

**1.** The Executive Council shall be composed of such persons as the Lieutenant Governor from time to time appoints, and all executive councillors so appointed are ministers of the Crown, and rank among themselves in the order of their appointments. R.S.O. 1960, c. 127, s. 1.

Executive Council, how composed

**2.** The Lieutenant Governor may appoint under the Great Seal from among the ministers of the Crown the following ministers to hold office during pleasure: a President of the Council, a Minister of Justice and Attorney General, a Provincial Secretary and Minister of Citizenship, a Treasurer of Ontario and Minister of Economics, a Minister of Revenue, a Minister of Lands and Forests, a Minister of Mines and Northern Affairs, a Minister of Agriculture and Food, a Minister of Public Works, a Minister of Highways, a Minister of Education, a Minister of Labour, a Minister of Health, a Minister of Social and Family Services, a Minister of Municipal Affairs, a Minister of Trade and Development, a Minister of Tourism and Information, a Minister of Correctional Services, a Minister of Transport, a Minister of Energy and Resources Management, a Minister of University Affairs, a Minister of Financial and Commercial Affairs, and such other ministers as he sees fit, and may by order in council prescribe their duties and the duties of the several departments over which they preside, and of the officers and clerks thereof. 1968, c. 37, s. 1, *amended*.

Heads of departments

**3.—(1)** The annual salary of every minister having charge of a department is \$15,000. R.S.O. 1960, c. 127, s. 3 (1); 1968-69, c. 35, s. 1 (1).

Salaries

(2) The member of the Executive Council holding the recognized position of First Minister shall receive, in addition, \$5,000 per annum. R.S.O. 1960, c. 127, s. 3 (2); 1968-69, c. 35, s. 1 (2).

Additional salary for First Minister

(3) The annual salary of every minister without portfolio is \$5,000. 1968-69, c. 35, s. 1 (3).

Salary of minister without portfolio

(4) The salaries are chargeable upon and payable yearly and *pro rata* for any period less than a year out of the Consolidated Revenue Fund. R.S.O. 1960, c. 127, s. 3 (4).

How payable

Transfer of  
duties from  
one member  
of Council  
to another  
R.S.O. 1970,  
c. 240

**4.**—(1) Notwithstanding *The Legislative Assembly Act*, any of the powers and duties that have been heretofore or may be hereafter assigned by law to any minister of the Crown may from time to time by order in council be assigned and transferred either for a limited period or otherwise to any other minister by name or otherwise.

Minister  
acting upon  
request

(2) On request made to him by the minister to whom any duties and powers have been assigned as provided in subsection 1, any other minister may for a period not exceeding one week perform such duties and exercise such powers in place of the minister making the request, and in such case no order in council is necessary.

Minister  
without  
portfolio  
may act

(3) Where any such duties and powers are assigned to a minister without portfolio, he does not thereby become ineligible as a member of the Assembly or to sit or vote therein. R.S.O. 1960, c. 127, s. 4.

Execution  
of contracts  
with Crown

**5.** No deed or contract in respect of any matter under the control or direction of a minister is binding on Her Majesty or shall be deemed to be the act of such minister unless it is signed by him or is approved by the Lieutenant Governor in Council. R.S.O. 1960, c. 127, s. 5.

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## CHAPTER 154

**The Expropriations Act****1.—(1)** In this Act,Interpre-  
tation

- (a) “approving authority” means the approving authority as determined under section 5;
- (b) “Board” means the Land Compensation Board established under section 28;
- (c) “expropriate” means the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers, but does not include the taking of land for the widening of a highway where entry is deferred under section 339 of *The Municipal Act*; R.S.O. 1970,  
c. 284
- (d) “expropriating authority” means the Crown or any person empowered by statute to expropriate land;
- (e) “injurious affection” means,
  - (i) where a statutory authority acquires part of the land of an owner,
    - a. the reduction in market value thereby caused to the remaining land of the owner by the acquisition or by the construction of the works thereon or by the use of the works thereon or any combination of them, and
    - b. such personal and business damages, resulting from the construction or use, or both, of the works as the statutory authority would be liable for if the construction or use were not under the authority of a statute,
  - (ii) where the statutory authority does not acquire part of the land of an owner,
    - a. such reduction in the market value of the land of the owner, and
    - b. such personal and business damages, resulting from the construction and not the use of the works by the statutory authority, as the statutory authority would be liable for if the construction were not under the authority of a statute,

and for the purposes of this clause, part of the lands of an owner shall be deemed to have been acquired where the owner from whom lands are acquired retains lands



contiguous to those acquired or retains lands of which the use is enhanced by unified ownership with those acquired;

- (f) “judge”, except where otherwise described, means a judge of the county or district court of the county or district in which the land or the greater part of it is situate;
- (g) “land” includes any estate, term, easement, right or interest in, to, over or affecting land;
- (h) “owner” includes a mortgagee, tenant, execution creditor, a person entitled to a limited estate or interest in land, a committee of the estate of a mentally incompetent person or of a person incapable of managing his affairs, and a guardian, executor, administrator or trustee in whom land is vested;
- (i) “prescribed” means prescribed by the regulations made under this Act;
- (j) “purchase-money mortgage” means a mortgage given by a purchaser of land to the vendor of the land or his nominee as security for the payment of all or part of the consideration for the sale;
- (k) “registered owner” means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the proper registry, land titles or sheriff’s office, and includes a person shown as a tenant of land on the last revised assessment roll;
- (l) “security holder” means a person who has an interest in land as security for the payment of money;
- (m) “statutory authority” means the Crown or any person empowered by statute to expropriate land or cause injurious affection;
- (n) “tenant” includes a lessee or occupant occupying premises under any tenancy whether written, oral or implied.

Service

(2) Any document required by this Act to be served may be served personally or by registered mail addressed to the person to be served at his last known address, or if that person or his address is unknown, by publication once a week for three weeks in a newspaper having general circulation in the locality in which the land concerned is situate and service shall be deemed to be made,

- (a) in the case of service by registered mail, on the second day after the day of mailing; and
- (b) in the case of service by publication, on the date of the third publication. 1968-69, c. 36, s. 1.

**2.**—(1) Notwithstanding any general or special Act, where land is expropriated or injurious affection is caused by a statutory authority, this Act applies.

Application  
of Act

(2) The provisions of any general or special Act providing procedures with respect to the expropriation of land or the compensation payable for land expropriated or for injurious affection that refer to *The Municipal Act*, *The Public Works Act* or any other Act shall be deemed to refer to this Act and not to *The Municipal Act*, *The Public Works Act* or other Act, as the case may be.

References  
in other  
Acts to  
R.S.O. 1970,  
cc. 284, 393  
deemed  
references  
to this Act

(3) This Act does not apply to the use of or injury to land authorized under *The Drainage Act* for the purposes of a drainage works constructed under that Act or to any proceedings in connection therewith.

Application  
to R.S.O. 1970,  
c. 136

(4) Where there is conflict between a provision of this Act and a provision of any other general or special Act, the provision of this Act prevails. 1968-69, c. 36, s. 2.

Conflict

**3.** This Act binds the Crown. 1968-69, c. 36, s. 3.

Crown  
bound by  
Act

**4.**—(1) An expropriating authority shall not expropriate land without the approval of the approving authority as determined under section 5.

Approval of  
intention to  
expropriate

(2) Subsection 1 does not apply to an authorization of the Ontario Energy Board under *The Ontario Energy Board Act* in respect of storage of gas in a gas storage area or to an expropriation authorized under section 41 of that Act. 1968-69, c. 36, s. 4.

Gas storage  
areas  
excepted  
R.S.O. 1970,  
c. 312

**5.**—(1) Subject to subsections 3, 4 and 5, the approving authority in respect of an expropriation shall be the Minister responsible for the administration of the Act in which the power to expropriate is granted, except that,

Approving  
authority

(a) where a municipality or a local board thereof, other than an elected school board, expropriates lands for municipal purposes, the approving authority shall be the council of the municipality; and

(b) where an elected school board expropriates lands, the approving authority shall be the school board.

(2) Where the power to expropriate is granted in a private Act, the approving authority shall be,

Idem,  
private  
Acts

(a) in the case of universities or other educational institutions, the Minister of University Affairs;

(b) in the case of hospitals or other medical or health institutions, the Minister of Health; and

- (c) in the case of all other corporations, the Provincial Secretary and Minister of Citizenship.

Idem,  
public  
works  
R.S.O. 1970,  
c. 393

(3) Where an expropriation is made under *The Public Works Act* for the benefit of a department or agency of the Ontario Government, the approving authority shall be the Minister for the department or responsible for the agency for the benefit of which the land is expropriated.

Idem,  
Power  
Commission  
R.S.O. 1970,  
c. 354

(4) Where an expropriation is made under *The Power Commission Act*, the approving authority shall be the Minister of Energy and Resources Management.

Idem,  
other cases

(5) The approving authority in any case not provided for in this section shall be the Minister of Justice and Attorney General. 1968-69, c. 36, s. 5.

Notice of  
intention  
to expro-  
pate

**6.—**(1) Upon applying for an approval under section 4, an expropriating authority shall serve a notice of its application for approval to expropriate upon each registered owner of the lands to be expropriated and shall publish the notice once a week for three consecutive weeks in a newspaper having general circulation in the locality in which the lands are situate. 1968-69, c. 36, s. 6 (1).

Notification  
for hearing

(2) Any owner of lands in respect of which notice is given under subsection 1 who desires a hearing shall so notify the approving authority in writing,

- (a) in the case of a registered owner, served personally or by registered mail within thirty days after he is served with the notice, or, where he is being served with the notice by publication, within thirty days after the first publication of the notice;
- (b) in the case of an owner who is not a registered owner, within thirty days after the first publication of the notice. 1968-69, c. 36, s. 6 (2), *amended*.

Order  
dispensing  
with inquiry

(3) The Lieutenant Governor in Council may, in special circumstances where he considers it necessary or expedient in the public interest to do so, direct that an intended expropriation shall proceed without the inquiry procedure and thereupon subsections 1 and 2 of this section, section 7 and subsections 1 and 2 of section 8 do not apply thereto.

Service  
of order

(4) Where an order is made under subsection 3, the expropriating authority shall forthwith serve a copy of the order on each registered owner affected by the intended expropriation.

Report to  
Assembly

(5) The Minister of Justice and Attorney General shall, within thirty days after the commencement of each session of the Legislative Assembly, lay before the Assembly a copy of each

order made theretofore under subsection 3 and not previously laid before the Assembly. 1968-69, c. 36, s. 6 (3-5).

**7.**—(1) The Minister of Justice and Attorney General shall appoint a chief inquiry officer and such inquiry officers as he considers necessary.

Appoint-  
ment of  
inquiry  
officers

(2) The chief inquiry officer shall have general supervision and direction over inquiry officers and the assignment of their duties.

Duties of  
chief  
inquiry  
officer

(3) Where a notification is made under subsection 2 of section 6, the approving authority shall refer the matter to the chief inquiry officer who shall forthwith assign an inquiry officer who shall fix a time and place for a hearing and who shall cause notice of the hearing to be served upon each party to the inquiry.

Hearing

(4) At least five days before the date fixed for the hearing, the expropriating authority shall serve upon each party to the inquiry a notice indicating the grounds upon which it intends to rely at the hearing and shall make available for inspection by the parties any documents, including maps and plans, that the expropriating authority intends to use at the hearing.

Notice of  
grounds

(5) The hearing shall be by means of an inquiry conducted by the inquiry officer who shall inquire into whether the taking of the lands or any part of the lands of an owner or of more than one owner of the same lands is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.

Inquiry

(6) The inquiry officer shall report to the approving authority a summary of the evidence and arguments advanced by the parties, the inquiry officer's findings of fact, and his opinion on the merits of the application for approval with his reasons therefor.

Report

(7) The inquiry officer may combine two or more related inquiries and conduct them in all respects and for all purposes as one inquiry.

Combined  
inquiries

(8) The expropriating authority, each owner who notifies the approving authority that he desires a hearing in respect of the lands intended to be expropriated and any owner added as a party by the inquiry officer are parties to the inquiry.

Parties

(9) The inquiry officer,

Powers and  
duties of  
inquiry  
officer

- (a) may add any owner whose land would be affected by the expropriation of the lands concerned in the inquiry or any modification thereof as a party to the inquiry;
- (b) shall give every party to the inquiry an opportunity to present evidence and argument and to examine and cross-examine witnesses, either personally or by his counsel or agent;



(c) is not bound by the technical or legal rules of evidence; and

(d) may inspect the lands concerned either alone or in the presence of the parties.

Costs

(10) The inquiry officer may recommend to the approving authority that a party to the inquiry be paid a fixed amount for his costs of the inquiry not to exceed \$200 and the approving authority may in its discretion order the expropriating authority to pay such costs forthwith. 1968-69, c. 36, s. 7.

Powers and  
duties of  
approving  
authority

**8.**—(1) The approving authority shall consider the report of the inquiry officer and shall approve or not approve the proposed expropriation or approve the proposed expropriation with such modifications as the approving authority considers proper, but an approval with modifications shall not affect the lands of a registered owner who is not or has not been made a party to the hearing.

Reasons

(2) The approving authority shall give written reasons for its decision and shall cause its decision and the reasons therefor to be served upon all the parties within ninety days after the date upon which the report of the inquiry officer is received by the approving authority.

Certificate

(3) The approving authority shall certify its approval in the prescribed form. 1968-69, c. 36, s. 8.

Registration  
of plan  
R.S.O. 1970,  
c. 312

**9.**—(1) Where a proposed expropriation has been approved under this Act or under *The Ontario Energy Board Act*, the expropriating authority shall register, within three months after the granting of the approval, in the proper registry or land titles office a plan of the land signed by the expropriating authority and by an Ontario land surveyor, and thereupon, but not otherwise, the land vests in the expropriating authority.

Where land  
required  
tempor-  
arily,  
etc.

(2) Where the land is required for a limited time only or only a limited estate, right or interest therein is required, the plan registered under this section shall indicate by appropriate words thereon that the land is taken for such limited time only or that only such limited estate, right or interest therein is taken, and, by the registration in such case, the land for such limited time or such limited estate, right or interest therein vests in the expropriating authority.

Correction  
of errors

(3) In the case of an omission, misstatement or erroneous description in a plan registered under this section, the expropriating authority may register in the proper registry or land titles office a plan replacing or amending the original plan and signed by the expropriating authority and by an Ontario land surveyor, and a plan registered under this subsection shall be marked to show the nature of the replacement or amendment and is of the same

force and effect as, and is in substitution for, the original plan to the extent that such plan is replaced or amended thereby.

(4) Where a plan purports to have been signed by an expropriating authority under this section, it shall be presumed to have been signed by the expropriating authority without proof of the signature or official character of the person appearing to have signed it, unless otherwise directed by a court or the Board.

Presump-  
tion as to  
signing

(5) Where a limited estate, right or interest in land is being taken under *The Power Commission Act* for an electrical transmission or distribution line carried on single poles, The Hydro-Electric Power Commission of Ontario may, before registering a plan under subsection 1, register in the proper registry or land titles office a preliminary plan, to be known as and marked "Preliminary Plan" and being a plan with or without local description, signed by the secretary of the Commission and illustrating the location of the proposed line and indicating by appropriate words thereon the nature of the estate, right or interest being taken, and such preliminary plan when registered has the same force and effect as a plan registered under subsection 1, but a plan in accordance with subsection 1 shall be registered within two years after the registration of the preliminary plan in substitution for the preliminary plan. 1968-69, c. 36, s. 9.

Ontario  
Hydro  
R.S.O. 1970,  
c. 354

**10.**—(1) Where a plan has been registered under section 9 and no agreement as to compensation has been made with the owner, the expropriating authority may serve the owner, and shall serve the registered owner, within thirty days after the date of registration of the plan, with a notice of expropriation of his land, in the prescribed form, but failure to serve the notice does not invalidate the expropriation.

Notice of  
expro-  
piation

(2) Where a plan has been registered under section 9, the registered owner may elect, by notice in writing served upon the expropriating authority, within thirty days after the owner was served with the notice under subsection 1, to have the compensation to which he is entitled assessed,

Election of  
date for  
compen-  
sation

- (a) where there has been an inquiry, as of the date the notice of hearing before the inquiry officer was served;
- (b) as of the date of the registration of the plan; or
- (c) as of the date on which he was served with the notice of expropriation,

and, where the election is not made within the prescribed time, the owner shall be deemed to have elected to have the compensation assessed as of the date of the registration of the plan.

(3) An expropriating authority may, after it has served notice of expropriation on the owner in possession of the lands expropriated, and with the consent of the said owner, enter on the

Entry on  
land for  
appraisal

expropriated lands for the purposes of viewing for appraisal, but, where the consent of the owner is not given, the expropriating authority may apply to the Board which may, by order, authorize the entry upon such terms and conditions as may be specified in the order. 1968-69, c. 36, s. 10.

Reparation

**11.** Where land is expropriated or is injuriously affected by a statutory authority, the statutory authority may, before the compensation is agreed upon or determined, undertake to make alterations or additions or to construct additional work or to grant other lands, in which case, the compensation shall be determined having regard to such undertaking, and, if the undertaking has not already been carried out, the Board may declare that, in addition to the compensation determined, if any, the owner is entitled to have such alteration or addition made or such additional work constructed or such grant made to him. 1968-69, c. 36, s. 11.

Gas storage  
areas  
R.S.O. 1970,  
c. 312

**12.** Section 21 of *The Ontario Energy Board Act* applies in respect of the use of designated gas storage areas. 1968-69, c. 36, s. 12.

Compensation

**13.**—(1) Where land is expropriated, the expropriating authority shall pay the owner such compensation as is determined in accordance with this Act.

Idem

(2) Where the land of an owner is expropriated, the compensation payable to the owner shall be based upon,

- (a) the market value of the land;
- (b) the damages attributable to disturbance;
- (c) damages for injurious affection; and
- (d) any special difficulties in relocation,

but, where the market value is based upon a use of the land other than the existing use, no compensation shall be paid under clause *b* for damages attributable to disturbance that would have been incurred by the owner in using the land for such other use. 1968-69, c. 36, s. 13.

Market  
value

**14.**—(1) The market value of land expropriated is the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.

Idem

(2) Where the land expropriated is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, and the owner intends in good faith to relocate in similar premises, the market value shall be deemed to be the reasonable cost of equivalent reinstatement.

(3) Where only part of the land of an owner is taken and such Idem part is of a size, shape or nature for which there is no general demand or market, the market value and the injurious affection caused by the taking may be determined by determining the market value of the whole of the owner's land and deducting therefrom the market value of the owner's land after the taking.

(4) In determining the market value of land, no account shall Idem be taken of,

- (a) the special use to which the expropriating authority will put the land;
  - (b) any increase or decrease in the value of the land resulting from the imminence of the development in respect of which the expropriation is made or from any imminent prospect of expropriation; or
  - (c) any increase in the value of the land resulting from the land being put to a use that could be restrained by any court or is contrary to law or is detrimental to the health of the occupants of the land or to the public health.
- 1968-69, c. 36, s. 14.

**15.** Upon application therefor, the Board shall, by order, after Increase by Board fixing the market value of lands used for residential purposes of the owner under subsection 1 of section 14, award such additional amount of compensation as, in the opinion of the Board, is necessary to enable the owner to relocate his residence in accommodation that is at least equivalent to the accommodation expropriated. 1968-69, c. 36, s. 15.

**16.** Where there are more separate interests than one in land, Separate interests other than the interest of a security holder or a vendor under an agreement for sale, the market value of each such separate interest shall be valued separately. 1968-69, c. 36, s. 16.

**17.—(1)** In this section, “bonus” means the amount by which Interpretation the amount secured under a mortgage exceeds the amount actually advanced.

- (2) Where land is subject to a security interest, Security holders
- (a) the value of the interest of the security holder shall be determined in accordance with this section and section 20 and not otherwise; and
  - (b) the market value of the land shall be determined without regard to the interest of the security holder and the amount of such market value plus any damages for injurious affection shall stand in place of the land for the purposes of the security.



Payment  
out of  
market  
value

(3) Security holders shall be paid the amount of principal and interest outstanding against the security out of the market value of the land and any damages for injurious affection payable in respect of the land subject to the security, in accordance with their priorities, whether or not such principal and interest is due, and subject to subsections 4 and 5.

Bonus

(4) Where the land is subject to a mortgage and the amount payable to the mortgagee under subsection 3 is insufficient to satisfy the mortgage in full,

(a) where the mortgage is a purchase-money mortgage, the mortgage shall be deemed to be fully paid, satisfied and discharged for all purposes; and

(b) where the mortgage is not a purchase-money mortgage and includes a bonus,

(i) the amount by which the amount payable to the mortgagee under subsection 3 is insufficient to pay the amount remaining unpaid under the mortgage, or

(ii) the amount of the bonus,

whichever is the lesser, shall be deemed to be fully paid and satisfied for all purposes.

Idem

(5) No amount shall be paid in respect of a bonus until all security holders have been paid all amounts payable other than any bonus.

Idem

(6) Where land held as security is expropriated in part or is injuriously affected, a security holder is entitled to be paid to the extent possible in accordance with his priority, out of the market value portion of the compensation and any damages for injurious affection therefor, as the case may be, a sum that is in the same ratio to such portion of the compensation and damages as the balance outstanding on the security at the date of the expropriation or injurious affection is to the market value of the entire land, provided however that the sum so determined shall be reduced by the amount of any payments made to the security holder by the owner after the date of expropriation or injurious affection. 1968-69, c. 36, s. 17.

Allowance  
for  
disturbance:  
owner other  
than tenant

**18.**—(1) The expropriating authority shall pay to an owner other than a tenant, in respect of disturbance, such reasonable costs as are the natural and reasonable consequences of the expropriation, including,

(a) where the premises taken include the owner's residence,

(i) an allowance to compensate for inconvenience and the cost of finding another residence of 5 per cent of the compensation payable in respect of the market value of that part of the land expropriated that is

used by the owner for residential purposes, provided that such part was not being offered for sale on the date of the expropriation, and

- (ii) an allowance for improvements the value of which is not reflected in the market value of the land;
- (b) where the premises taken do not include the owner's residence, the owner's costs of finding premises to replace those expropriated, provided that the lands were not being offered for sale on the date of expropriation; and
- (c) relocation costs, including,
  - (i) the moving costs, and
  - (ii) the legal and survey costs and other non-recoverable expenditures incurred in acquiring other premises.

(2) The expropriating authority shall pay to a tenant occupying expropriated land in respect of disturbance so much of the cost referred to in subsection 1 as is appropriate having regard to, tenant

- (a) the length of the term;
  - (b) the portion of the term remaining;
  - (c) any rights to renew the tenancy or the reasonable prospects of renewal;
  - (d) in the case of a business, the nature of the business; and
  - (e) the extent of the tenant's investment in the land.
- 1968-69, c. 36, s. 18.

**19.**—(1) Where a business is located on the land expropriated, the expropriating authority shall pay compensation for business loss resulting from the relocation of the business made necessary by the expropriation and, unless the owner and the expropriating authority otherwise agree, the business losses shall not be determined until the business has moved and been in operation for six months or until a three-year period has elapsed, whichever occurs first. Business loss

(2) The Board may, in determining compensation on the application of the expropriating authority or an owner, include an amount not exceeding the value of the good will of a business where the land is valued on the basis of its existing use and, in the opinion of the Board, it is not feasible for the owner to relocate. Good will

1968-69, c. 36, s. 19.

**20.** Where a statutory authority prepays a mortgage in whole or in part, the statutory authority, Prepayment of mortgage

- (a) shall pay to the mortgagee a bonus in respect of the prepayment amounting to,

- (i) three months interest on the amount of principal prepaid at the rate of 6 per cent a year or at such other rate as is prescribed by the Lieutenant Governor in Council by regulation, or
  - (ii) the value of any notice or bonus for prepayment provided for in the mortgage,
- whichever is the lesser;
- (b) shall pay to the mortgagee where,
    - (i) the prevailing interest rate for an equivalent investment is lower than the rate under the mortgage, and
    - (ii) there is no provision in the mortgage permitting prepayment at the date of the expropriation,
 an amount to compensate for the difference in the interest rates for the period for which the amount of principal prepaid has been advanced, not to exceed five years; and
  - (c) shall pay to the mortgagor whose interest is expropriated an amount to compensate for any loss incurred by reason of a difference in the interest rates during the period for which the payment of principal provided for in the mortgage has been advanced, but such difference shall not be calculated on a new interest rate any greater than the prevailing interest rate for an equivalent mortgage. 1968-69, c. 36, s. 20.

Compensation for injurious affection

**21.** A statutory authority shall compensate the owner of land for loss or damage caused by injurious affection. 1968-69, c. 36, s. 21.

Claim for compensation for injurious affection

**22.**—(1) Subject to subsection 2, a claim for compensation for injurious affection shall be made by the person suffering the damage or loss in writing with particulars of the claim within one year after the damage was sustained or after it became known to him, and, if not so made, the right to compensation is forever barred.

Idem, where owner under disability

(2) Where the person who is injuriously affected is an infant, a mental incompetent or a person incapable of managing his affairs, his claim for compensation shall be made within one year after he ceased to be under the disability or, in the case of his death while under the disability, within one year after his death, and, if not so made, the right to compensation is forever barred. 1968-69, c. 36, s. 22.

Set-off against damages

**23.** The value of any advantage to the land or remaining land of an owner derived from any work for which land was expropriated or by which land was injuriously affected shall be set off only

against the amount of the damages for injurious affection to the owner's land or remaining lands. 1968-69, c. 36, s. 23.

**24.** A statutory authority has the authority to make and perform an agreement with an owner in respect of any claim of the owner under this Act, including any costs of the owner and notwithstanding that this Act requires the claim to be determined by the Board. 1968-69, c. 36, s. 24. Agreements

**25.—(1)** Where no agreement as to compensation has been made with the owner, the expropriating authority shall, within three months after the registration of a plan under section 9 and before taking possession of the land, Offer

- (a) serve upon the registered owner,
  - (i) an offer of an amount in full compensation for his interest, and
  - (ii) where the registered owner is not a tenant, a statement of the total compensation being offered for all interests in the land,

excepting compensation for business loss for which the determination is postponed under subsection 1 of section 19; and

- (b) offer the registered owner immediate payment of 100 per cent of the amount of the market value of the owner's land as estimated by the expropriating authority, and the payment and receipt of that sum is without prejudice to the rights conferred by this Act in respect of the determination of compensation and is subject to adjustment in accordance with any compensation that may subsequently be determined in accordance with this Act or agreed upon.

(2) The expropriating authority shall base its offer of compensation made under subsection 1 upon a report appraising the market value of the lands being taken and damages for injurious affection, and shall serve a copy of the appraisal report upon the owner at the time the offer is made. Furnishing appraisal report

(3) The expropriating authority may, within the period mentioned in subsection 1 and before taking possession of the land, upon giving at least two days notice to the registered owner, apply to the judge for an order extending any time referred to in subsection 1, and the judge may in his order authorize the statutory authority to take possession of the land before the expiration of the extended time for serving the offer or statement under clause *a* of subsection 1 upon such conditions as may be specified in the order. Extension of time

(4) If any registered owner is not served with the offer required to be served on him under subsection 1 within the time limited by Failure to serve



subsection 1 or by an order of a judge under subsection 3 or by agreement, the failure does not invalidate the expropriation but interest upon the unpaid portion of any compensation payable to such registered owner shall be calculated from the date of registration of the plan. 1968-69, c. 36, s. 25.

Choice of  
proceedings,  
negotiation  
or  
arbitration

**26.** Where the statutory authority and the owner have not agreed upon the compensation payable under this Act and, in the case of injurious affection, section 22 has been complied with, or, in the case of expropriation, section 25 has been complied with, or the time for complying therewith has expired,

- (a) the statutory authority or the owner may serve notice of negotiation upon the other of them and upon the board of negotiation stating that it or he, as the case may be, requires the compensation to be negotiated under section 27; or
- (b) where the statutory authority and the owner have agreed to dispense with negotiation proceedings, the statutory authority or the owner may serve notice of arbitration upon the other of them and upon the Board to have the compensation determined by arbitration. 1968-69, c. 36, s. 26.

Board of  
negotiation

**27.**—(1) A board of negotiation shall be established consisting of two or more members appointed by the Lieutenant Governor in Council, one of whom may be designated as chairman.

Quorum

(2) Any two of the members of the board of negotiation constitute a quorum and are sufficient to perform all the functions of the board on behalf of the board.

Place of  
sitting

(3) The board of negotiation may sit at any place in Ontario.

Negotiation  
of amount  
of compen-  
sation

(4) In any case in which a notice of negotiation is served, the board of negotiation shall, upon reasonable notice to the statutory authority and the owner, meet with them and, without prejudice to any subsequent proceedings, proceed in a summary and informal manner to negotiate a settlement of the compensation.

Inspection  
of land

(5) Before or during the negotiation proceedings, the board of negotiation shall inspect the land that has been expropriated or injuriously affected.

Where no  
settlement  
reached

(6) If the negotiation proceedings do not result in a settlement of the compensation, the statutory authority or the owner may serve notice of arbitration upon the other of them, and upon the Board, stating that it or he, as the case may be, requires the compensation to be determined by arbitration as though the negotiation proceedings had not taken place. 1968-69, c. 36, s. 27.

**28.**—(1) The Land Compensation Board is continued and shall be composed of a chairman and such number of vice-chairmen and other members as the Lieutenant Governor in Council considers advisable, all of whom shall be appointed by the Lieutenant Governor in Council. 1968-69, c. 36, s. 28 (1), *amended*.

Land  
Compensa-  
tion Board

(2) The chairman and vice-chairmen shall be members of the bar of one of the provinces of Canada.

Qualifica-  
tions of  
chairman  
and vice-  
chairmen

(3) The chairman or a vice-chairman and two other members of the Board constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board, except that in matters respecting a claim for compensation not exceeding \$1,000, one member of the Board constitutes a quorum and is sufficient for the exercise of all the jurisdiction of the Board.

Quorum

(4) The Board may,

Powers  
of Board

- (a) administer oaths to witnesses and require them to give evidence under oath;
- (b) issue summonses requiring the attendance of witnesses and the production of documents and things;
- (c) hold sittings at any place in Ontario and in more than one place at the same time.

(5) If any person,

Enforce-  
ment of  
summons

- (a) on being duly summoned as a witness before the Board makes default in attending; or
- (b) being in attendance as a witness refuses to take an oath legally required by the Board to be taken, or to produce any document or thing in his power or control legally required by the Board to be produced by him, or to answer any question to which the Board may legally require an answer; or
- (c) does any other thing that would, if the Board had been a court of law having power to commit for contempt, have been contempt of that court,

a member of the Board may certify the offence of that person under his hand to the High Court, and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

Practice  
and  
procedure

(6) Subject to the approval of the Lieutenant Governor in Council, the Board shall make rules governing its practice and procedure and the exercise of its powers.

Registrar  
and  
employees  
R.S.O. 1970,  
c. 386

(7) A registrar and such other officers and employees of the Board as are considered necessary shall be appointed under *The Public Service Act*. 1968-69, c. 36, s. 28 (2-7).

Service of  
appraisal  
reports

**29.**—(1) At least fifteen days before the date fixed for the hearing of an application before the Board, any party to the application shall serve upon each other party a copy of any appraisal report upon which it intends to rely at the hearing.

Expert  
evidence  
as to  
compen-  
sation

(2) Where it is intended by a party to adduce evidence as to compensation by persons entitled by law or custom to give opinion evidence, not more than three such persons may be called by either party without the leave of the Board. 1968-69, c. 36, s. 29.

Duties of  
Board

**30.**—(1) The Board shall determine any compensation in respect of which a notice of arbitration has been served upon it under section 26 or 27, and, in the absence of agreement, determine any other matter required by this or any other Act to be determined by the Board.

Record

(2) All oral evidence submitted before the Board shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by the Board, form the record.

Reasons

(3) The Board shall prepare and furnish the parties to an application with written reasons for its decision.

Reports

(4) The Board may prepare and periodically publish a summary of such of its decisions and the reasons therefor as the Board considers to be of general public significance. 1968-69, c. 36, s. 30.

Stated  
case

**31.**—(1) Where the jurisdiction of the Board or the validity of any decision, order, direction or other act of the Board is called into question by any person affected, the Board, upon the request of such person, shall state a case in writing to the Court of Appeal setting forth the material facts and the decision of the court thereon is final and binding.

Order  
directing  
stated case

(2) If the Board refuses to state a case, any person affected may apply to the Court of Appeal for an order directing the Board to state a case.

Proceedings  
stayed  
until case  
determined

(3) Pending the decision of the stated case, no further proceedings in respect of the application shall be taken by the Board. 1968-69, c. 36, s. 31.

**32.**—(1) An appeal lies to the Court of Appeal from any determination or order of the Board. Appeals

(2) The practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court, except that the appeal may be taken at any time within six weeks from the day the determination or order was served on the parties, and the period of any vacation of the Supreme Court shall not be reckoned in computing such six weeks. Idem

(3) An appeal under subsection 1 may be made on questions of law or fact or both and the Court of Appeal, Powers of Court of Appeal

- (a) may refer any matter back to the Board; or
- (b) may make any decision or order that the Board has power to make,

and may exercise the same powers as it exercises on an appeal from a judge of the High Court sitting without a jury.

(4) A judge of the Court of Appeal may extend the time for appeal for such period as he considers proper. 1968-69, c. 36, s. 32. Extension of time for appeal

**33.**—(1) Where the amount to which an owner is entitled upon an expropriation is determined by the Board and the amount awarded by the Board is 85 per cent, or more, of the amount offered by the statutory authority, the Board shall make an order directing the statutory authority to pay the reasonable legal, appraisal and other costs actually incurred by the owner for the purposes of determining the compensation payable. Costs

(2) Where the amount to which an owner is entitled upon an expropriation is determined by the Board and the amount awarded by the Board is less than 85 per cent of the amount offered by the statutory authority, the Board may make such order for the payment of costs on a party and party basis as it considers appropriate. 1968-69, c. 36, s. 33. Idem

**34.**—(1) Subject to subsection 4 of section 25, the owner of lands expropriated is entitled to be paid interest on the portion of the market value of his interest in the land and on the portion of any allowance for injurious affection to which he is entitled, outstanding from time to time, at the rate of 6 per cent a year calculated from the date the owner ceases to reside on or make productive use of the lands. Interest

(2) Subject to subsection 3, where the Board is of the opinion that any delay in determining the compensation is attributable in whole or in part to the owner, it may refuse to allow him interest for the whole or any part of the time for which he might otherwise Variation of interest



be entitled to interest, or may allow interest at such rate less than 6 per cent a year as appears reasonable.

Idem

(3) The interest to which an owner is entitled under subsection 1 shall not be reduced for the reason only that the owner did not accept the offer made by the expropriating authority, notwithstanding that the compensation as finally determined is less than the offer.

Idem

(4) Where the Board is of the opinion that any delay in determining compensation is attributable in whole or in part to the expropriating authority, the Board may order the expropriating authority to pay to the owner interest under subsection 1 at a rate exceeding 6 per cent a year but not exceeding 12 per cent a year. 1968-69, c. 36, s. 34.

Abatement  
of rent

**35.**—(1) Subject to subsection 2, where only part of the interest of a lessee is expropriated, the lessee's obligation to pay rent under the lease shall be abated *pro tanto*, as determined by the Board.

Frustration  
of lease

(2) Where all the interest of a lessee in land is expropriated or where part of the lessee's interest is expropriated and the expropriation renders the remaining part of the lessee's interest unfit for the purposes of the lease, as determined by the Board, the lease shall be deemed to be frustrated from the date of the expropriation. 1968-69, c. 36, s. 35.

Character  
of compensation

**36.** Where land has been expropriated, the compensation stands in the stead of the land, and any claim to or encumbrance on the land is, as respects the expropriating authority, converted into a claim to or upon the compensation and no longer affects the land. 1968-69, c. 36, s. 36.

Payment  
of compensation not  
exceeding  
\$1,000

**37.** Where the owner who is entitled to convey the land that has been expropriated or injuriously affected and the statutory authority agree as to the compensation or the compensation has been determined and in either case it does not exceed \$1,000, the statutory authority may pay the compensation to the owner who is entitled to convey the land, saving always the rights of any other person to the compensation as against the person receiving it, and such payment discharges the statutory authority from all liability in respect of the compensation. 1968-69, c. 36, s. 37.

Representative

**38.** Where an owner of the land is unknown, is under a disability or for any other reason is not represented, a judge of the Supreme Court may, after due notice to the persons interested, appoint a person to represent such owner for any of the purposes of this Act, and any action of a person so appointed is binding on the person whom he represents. 1968-69, c. 36, s. 38.

**39.—**(1) In any case where the statutory authority considers it advisable, it may without an order, pay the compensation agreed upon or determined into the office of the Accountant of the Supreme Court together with a sum equal to the interest thereon at the rate of 6 per cent a year for six months.

Payment  
into court

(2) Upon an application for payment out of court of compensation paid into court, a judge of the Supreme Court may direct that such notice of the application be given by publication or otherwise as he considers proper and may direct the trial of an issue or make such order with respect to the payment out of court of compensation and as to costs as he considers reasonable.

Payment  
out of  
court

(3) Where an order is obtained under subsection 2 in less than six months after the payment of the compensation into court, the judge making the order may direct that a proportionate part of the interest be returned to the statutory authority.

Adjustment  
of interest

(4) Where unborn issue or an unascertained person or class is interested in compensation paid into court, a judge of the Supreme Court may appoint such person as he considers proper to represent them, and any order made under this section is binding on them. 1968-69, c. 36, s. 39.

Where  
unborn  
issue  
interested

**40.—**(1) Where land that has been expropriated is vested in an expropriating authority and the expropriating authority has served the registered owner with a notice that it requires possession of the land on the date specified therein, the expropriating authority, subject to any agreement to the contrary and if no application is made under subsection 3, shall take possession of the land on the date specified in the notice.

Possession  
of expro-  
priated  
land

(2) Subject to subsection 3, the date for possession shall be at least three months after the date of the serving of the notice of possession.

Date for  
possession

(3) A registered owner or an expropriating authority may, upon such notice as the judge may direct, apply to a judge for an adjustment of the date for possession specified in the notice of possession, and the judge, if he considers that under all the circumstances the application should be granted, may order that the date for possession shall be on such earlier or later date as he may specify in the order. 1968-69, c. 36, s. 40.

Application  
for post-  
ponement  
of  
possession

**41.—**(1) Where resistance or opposition is made to the expropriating authority or any person authorized by it in entering upon, using or taking possession of land when it is entitled so to do, it may apply to a judge for a warrant directing the sheriff to put down the resistance or opposition.

Warrant to  
put down  
resistance  
to entry,  
etc.

Hearing

(2) The judge shall, in writing, appoint a time and place for the hearing of the application and in his appointment may direct that it shall be served upon such person as he may prescribe.

Issue of  
warrant

(3) On proof of the resistance or opposition, the judge may issue a warrant.

Return

(4) The sheriff shall forthwith execute the warrant and make a return to the judge of the execution thereof. 1968-69, c. 36, s. 41.

Abandon-  
ment of  
expropri-  
ated land

**42.**—(1) Where, at any time before the compensation upon an expropriation is paid in full, the land or any part thereof is found to be unnecessary for the purposes of the expropriating authority or if it is found that a more limited estate or interest therein only is required, the expropriating authority shall so notify each owner of the abandoned land, or estate or interest, who is served or entitled to be served with the notice of expropriation, who may, by election in writing,

- (a) take the land, estate or interest back, in which case he has the right to compensation for consequential damages; or
- (b) require the expropriating authority to retain the land, estate or interest, in which case he has the right to full compensation therefor.

Revesting

(2) Where all the owners elect to take the land, estate or interest back under clause *a* of subsection 1, the expropriating authority may, by an instrument signed by it and registered in the proper registry or land titles office and served on each owner, declare that the land or part thereof is not required and is abandoned by the expropriating authority or that it is intended to retain only such limited estate or interest as is mentioned in the instrument, and thereupon,

- (a) the land declared to be abandoned reverts in the owner from whom it was expropriated and those entitled to claim under him; or
- (b) in the event of a limited estate or interest only being retained by the expropriating authority, the land so reverts subject to such limited estate or interest. 1968-69, c. 36, s. 42.

Disposal of  
expropri-  
ated lands

**43.** Where lands that have been expropriated and are in the possession of the expropriating authority are found by the expropriating authority to be no longer required for its purposes, the expropriating authority shall not, without the approval of the approving authority, dispose of the lands without giving the owners from whom the land was taken the first chance to repurchase the lands on the terms of the best offer received by the expropriating authority. 1968-69, c. 36, s. 43.

**44.** Any application to set aside or quash any proceeding or step taken under this Act shall be made within thirty days after the proceeding or step in respect of which the application is made, but this section does not apply where the applicant was entitled to and not given notice of the proceeding or step or where the proceeding or step was a nullity. 1968-69, c. 36, s. 44. Time for application

**45.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing rates of interest for the purposes of section 20;
- (b) prescribing forms for the purposes of this Act and providing for their use;
- (c) prescribing procedures respecting applications to and hearings by inquiry officers and boards of negotiation. 1968-69, c. 36, s. 45.

**46.** This Act applies in respect of expropriations for which a plan has not been registered under section 4 of *The Expropriation Procedures Act, 1962-63* before the 20th day of December, 1968, and an expropriation for which a plan has been registered under section 4 of the said Act before the 20th day of December, 1968, shall be continued in accordance with *The Expropriation Procedures Act, 1962-63*, except that where the compensation has not been agreed upon between the parties and no evidence has been heard by a tribunal under *The Expropriation Procedures Act, 1962-63*, other than the board of negotiation, sections 13 to 21, 23, 24, 29, 33, 34, 35 and 42 apply thereto. 1968-69, c. 36, s. 46 (1), amended. Application to existing proceedings 1962-63, c. 43

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CHAPTER 155

The Extra-Judicial Services Act

**1.** Every judge of the Supreme Court shall be paid out of the Consolidated Revenue Fund the annual sum of \$6,000, payable quarterly, as compensation for the services that he is called on to render by any Act of the Legislature in addition to his ordinary duties. R.S.O. 1960, c. 128, s. 1; 1968, c. 38, s. 1.

Annual  
compensa-  
tion

**2.—(1)** In this section, “judge” means a judge within the meaning of the *Judges Act* (Canada).

Interpre-  
tation  
R.S.C. 1952,  
c. 159

(2) A judge may act as a conciliator, arbitrator, referee or on a commission of inquiry pursuant to an Act of the Legislature or pursuant to an agreement made under any such Act.

Extra-  
judicial  
services  
authorized

(3) Notwithstanding any statutory provision, regulation, rule, order or agreement, where a judge acts as a conciliator, arbitrator or referee he shall not receive any remuneration for his services other than such transportation and living allowance as the Lieutenant Governor in Council may fix by general or special order. R.S.O. 1960, c. 128, s. 2.

Remunera-  
tion





## CHAPTER 156

### The Factors Act

#### 1.—(1) In this Act,

- (a) “document of title” includes a bill of lading and warehouse receipt as defined by *The Mercantile Law Amendment Act*, a warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize, either by endorsement or delivery, the possessor of the document to transfer or receive goods thereby represented;
- (b) “goods” includes wares and merchandise;
- (c) “mercantile agent” means a mercantile agent having, in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods;
- (d) “pledge” includes a contract pledging or giving a lien or security on goods, whether in consideration of an original advance or of any further or continuing advance or of any pecuniary liability.

Interpre-  
tation

R.S.O. 1970,  
c. 272

(2) A person shall be deemed to be in possession of goods or of the documents of title to goods where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or on his behalf. R.S.O. 1960, c. 129, s. 1.

Possession

2.—(1) Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods, a sale, pledge or other disposition of the goods made by him when acting in the ordinary course of business of a mercantile agent is, subject to this Act, as valid as if he were expressly authorized by the owner of the goods to make the disposition, if the person taking under it acts in good faith and has not at the time thereof notice that the person making it has not authority to make it.

Powers of  
agent as to  
disposition  
of goods

(2) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of documents of title to goods, a sale, pledge or other disposition that would have been valid if the consent had continued, is valid notwithstanding the termination of the consent if the person taking under the disposition acts in good faith and has not at the time thereof notice that the consent has been terminated.

Revocation  
of consent



Derivative documents

(3) Where a mercantile agent has obtained possession of any documents of title to goods by reason of his being or having been, with the consent of the owner, in possession of the goods represented thereby, or of any other documents of title to the goods, his possession of the first mentioned documents shall, for the purposes of this Act, be deemed to be with the consent of the owner.

Presumption

(4) For the purposes of this Act, the consent of the owner shall be presumed in the absence of evidence to the contrary. R.S.O. 1960, c. 129, s. 2.

Effect of pledge of documents of title

**3.** A pledge by a mercantile agent of the documents of title to goods shall be deemed to be a pledge of the goods. R.S.O. 1960, c. 129, s. 3.

Pledge for antecedent debt

**4.** Where a mercantile agent pledges goods as security for a debt due from or liability incurred by the pledgor to the pledgee before the time of the pledge, the pledgee acquires no further right to the goods than could have been enforced by the pledgor at the time of the pledge. R.S.O. 1960, c. 129, s. 4.

What consideration necessary

**5.** The consideration necessary for the validity of a sale, pledge or other disposition of goods by a mercantile agent in pursuance of this Act may be either a payment in cash or the delivery or transfer of other goods, or of a document of title to goods, or of a negotiable security or any other valuable consideration, but, where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods, or of a document of title to goods, or of a negotiable security or of other valuable consideration, the pledgee acquires no right or interest in the goods so pledged in excess of the value of the goods, document, security or other valuable consideration when so delivered or transferred in exchange. R.S.O. 1960, c. 129, s. 5.

Agreements through clerks, etc.

**6.** For the purposes of this Act, an agreement made with a mercantile agent through a clerk or other person authorized in the ordinary course of business to make contracts of sale or pledge on his behalf shall be deemed to be an agreement with the agent. R.S.O. 1960, c. 129, s. 6.

Rights of consignee making advances in good faith

**7.—(1)** Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale, or has shipped the goods in the name of another person, and the consignee of the goods has not had notice that such person is not the owner of the goods, the consignee has, in respect of advances made in good faith to or for the use of such person, the same lien on the goods as if such person were the owner of the goods, and may transfer any such lien to another person.

(2) Nothing in this section limits or affects the validity of a sale, pledge or disposition by a mercantile agent. R.S.O. 1960, c. 129, s. 7. Sale, etc., by mercantile agent

8. Subject to *The Warehouse Receipts Act*, for the purposes of this Act the transfer of a document of title may be by endorsement or, where the document is by custom or by its express terms transferable by delivery or makes the goods deliverable to the bearer, then by delivery. R.S.O. 1960, c. 129, s. 8. Mode of transferring documents R.S.O. 1970, c. 489

9.—(1) Nothing in this Act authorizes an agent to exceed or depart from his authority as between himself and his principal or exempts him from any liability for so doing. Liability of agent

(2) Nothing in this Act prevents the owner of goods from recovering them from his agent at any time before their sale or pledge, or prevents the owner of goods pledged by an agent from having the right to redeem them at any time before their sale on satisfying the claim for which the goods were pledged and paying to the agent, if by him required, any money in respect of which the agent would by law be entitled to retain the goods or the documents of title thereto, or any of them, by way of lien as against the owner, or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien. Rights of owner to recover possession, etc.

(3) Nothing in this Act prevents the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for them, or any part of that price, subject to any right of set-off on the part of the buyer against the agent. R.S.O. 1960, c. 129, s. 9. Price from buyer

10. This Act shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Act. R.S.O. 1960, c. 129, s. 10. Amplification of powers of agents





## CHAPTER 157

**The Family Benefits Act****1. In this Act,**Interpre-  
tation

- (a) “allowance” means an allowance provided on the basis of need under this Act and the regulations;
- (b) “applicant” means a person who applies, or on whose behalf an application is made, for one or more benefits;
- (c) “beneficiary” means a person on whose behalf a benefit is provided;
- (d) “benefit” means a benefit provided on the basis of need under this Act and the regulations, and includes an allowance;
- (e) “dependent child” means a person who resides in Ontario and,
  - (i) is supported by his mother, dependent father or the person who stands *in loco parentis* to him,
  - (ii) is under twenty-one years of age, and
  - (iii) attends an educational institution of a class defined by the regulations and is making satisfactory progress with his studies;
- (f) “dependent father” means a father who is permanently unemployable by reason of physical or mental disability, and includes a father who is blind or otherwise disabled as defined by the regulations;
- (g) “Director” means the Director of the Family Benefits Branch of the Department of Social and Family Services;
- (h) “field worker” means a person employed as such by the Department of Social and Family Services or any other employee of the Department whom the Minister designates as such;
- (i) “Minister” means the Minister of Social and Family Services;
- (j) “mother” means the mother of a dependent child;
- (k) “recipient” means a person to whom an allowance is provided;



- (l) "regional administrator" means a regional welfare administrator or any other employee of the Department of Social and Family Services whom the Minister designates as such for the purposes of this Act;
- (m) "regulations" means the regulations made under this Act. 1966, c. 54, s. 1, *amended*.

Agreements  
with  
Canada

1966-67,  
c. 45 (Can.)

**2.** Where the Minister, with the approval of the Lieutenant Governor in Council, has made an agreement on behalf of the Government of Ontario with the Crown in right of Canada respecting the payment by Canada to Ontario, in accordance with the *Canada Assistance Plan* and the regulations made under it, of any portion of any expenditures made by Ontario pursuant to this Act and the regulations thereunder and for any reason the Government of Canada ceases to make the contributions provided for under the *Canada Assistance Plan* or fails to carry out the agreement, all benefits under this Act shall cease. 1966, c. 54, s. 2.

Duties of  
Director

**3.—(1)** The Director shall,

- (a) receive applications for benefits; and
- (b) determine the eligibility of each applicant to receive a benefit and, where the applicant is eligible, determine the amount of the allowance or other benefit and direct provision thereof accordingly, and may from time to time vary any amount so determined.

Acting  
Director

(2) Where the Director is absent or there is a vacancy in the office, his powers and duties shall be exercised and performed by such civil servant as the Minister may designate. 1966, c. 54, s. 3.

Delegation  
of power

(3) The Director, with the consent in writing of the Deputy Minister of Social and Family Services, may authorize any employee or class of employee of the Family Benefits Branch of the Department of Social and Family Services to exercise and discharge any of the powers conferred or the duties imposed upon him under this Act. 1968, c. 39, s. 1.

Power  
to take  
affidavits

R.S.O. 1970,  
c. 72

**4.** The Director, every regional administrator and every field worker is, in the performance of his duties under this Act, a commissioner for taking affidavits within the meaning of *The Commissioners for taking Affidavits Act*. 1966, c. 54, s. 4.

No attach-  
ment, etc.,  
of allow-  
ances

**5.** An allowance,

- (a) is not subject to alienation or transfer by the recipient; and
- (b) is not subject to attachment or seizure in satisfaction of any claim against the recipient. 1966, c. 54, s. 5.

**6.** The receipt of a benefit does not by itself constitute a disqualification of the recipient or beneficiary from voting at any provincial or municipal election. 1966, c. 54, s. 6.

Voting  
rights

**7.—(1)** An allowance shall and other benefits may be provided in accordance with the regulations to any person in need who is resident in Ontario as determined by the regulations and,

Who  
entitled  
to an  
allowance  
and other  
benefits

- (a) who has attained the age of sixty-five years and who is not in receipt of a pension under the *Old Age Security Act* (Canada); or R.S.C. 1952, c. 200
- (b) who has attained the age of sixty years but has not attained the age of sixty-five years and is a widow, an unmarried woman, or a woman,
  - (i) whose husband is a patient in an institution under *The Mental Hospitals Act*, a sanatorium under *The Sanatoria for Consumptives Act*, a hospital for the chronically ill or a nursing home, or a resident in a home for the aged under *The Homes for the Aged and Rest Homes Act* or *The Charitable Institutions Act*, and has been a patient or resident therein, as the case may be, for a continuous period of six months or more, R.S.O. 1970, cc. 270, 422
  - (ii) whose husband has deserted her for three months or more and his whereabouts is unknown,
  - (iii) whose husband is imprisoned in a penal institution and at the date of application has a term of imprisonment remaining to be served of six months or more,
  - (iv) who is divorced and has not remarried, or
  - (v) who is living separate and apart from her husband and has been living separate and apart from him for a continuous period of five years or more; or R.S.O. 1970, cc. 206, 62
- (c) who has attained the age of eighteen years and is blind or otherwise disabled as defined by the regulations and is not in receipt of a pension under the *Old Age Security Act* (Canada); or
- (d) who is a mother with a dependent child and,
  - (i) who is a widow, or
  - (ii) whose husband has deserted her for three months or more, or
  - (iii) whose husband has deserted her and was a dependent father at the time of the desertion, or
  - (iv) whose husband is a patient in a sanatorium, hospital or similar institution, or

- (v) whose husband is imprisoned in a penal institution and at the date of the application has a term of imprisonment remaining to be served of six months or more, or
- (vi) who is divorced from the father of her dependent child and has not remarried, or
- (vii) whose dependent child was born out of wedlock, where the mother is sixteen years or more of age and her dependent child is three months or more of age; or
- (e) who is a dependent father with a dependent child and,
  - (i) who lives with the mother of his dependent child, or
  - (ii) whose wife has deserted him, or
  - (iii) whose wife is a patient in a sanatorium, hospital or similar institution, or is imprisoned in a penal institution, or
  - (iv) who is a widower; or
- (f) who is a foster mother with a foster child.

Qualifica-  
tions for  
children

- (2) No benefit shall be provided in respect of a dependent child who is under eighteen years of age and who is not attending school, unless the dependent child,
- (a) is of pre-school age; or
  - (b) is unable to attend school by reason of mental or physical disability; or
  - (c) is on vacation from school and the Director is satisfied that the dependent child will return to school at the end of the vacation period.

Failure to  
comply  
with Act  
and  
regulations

- (3) Any benefit may be suspended or cancelled if the recipient fails to comply with any requirement of this Act or the regulations. 1966, c. 54, s. 7.

Special  
cases

- 3.—**(1) In cases presenting special circumstances and in which investigation shows the advisability of an allowance being provided to an applicant who is not eligible for an allowance, the Lieutenant Governor in Council may direct that an allowance be provided to the applicant.

Variation  
of amount

- (2) The Director may determine the amount of any allowance directed to be provided under subsection 1 and may from time to time vary the amount so determined.

Additional  
benefits

- (3) Every person who is provided with an allowance under subsection 1 is eligible for other benefits as if he were eligible under subsection 1 of section 7. 1966, c. 54, s. 8.

**9.** A benefit shall be provided only after the receipt by the Director of an application therefor in the prescribed form. 1966, c. 54, s. 9.

Application

**10.—**(1) Where a recipient dies, his allowance shall be paid to the end of the month in which he died.

Where recipient dies

(2) In the case of a recipient,

Where allowance may be paid to a trustee, etc.

- (a) for whom a committee or trustee is acting; or
- (b) who, in the opinion of the Director, is using or is likely to use his allowance otherwise than for his own benefit, or is incapacitated or is incapable of handling his affairs,

the Director may appoint a person to act for the recipient, and the allowance may be paid for the benefit of the recipient to the committee or trustee or to the person so appointed.

(3) A person acting for a recipient under subsection 2 is not entitled to any fee or other compensation or reward or to any reimbursement for any costs or expenses incurred by him. 1966, c. 54, s. 10.

Compensation

**11.—**(1) There shall be a board of review that shall be composed of not more than such number of members as is prescribed by the regulations, who shall be appointed by the Lieutenant Governor in Council.

Board of review

(2) One of the members of the board of review shall be appointed by the Lieutenant Governor in Council to be chairman of the board of review and one or more other of the members of the board may be appointed by the Lieutenant Governor in Council to be vice-chairmen of the board.

Chairman and vice-chairmen

(3) The members of the board of review shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

Remuneration

(4) Each member of the board of review shall hold office for three years.

Term of office

(5) Three members of the board of review constitute a quorum and are sufficient for the exercise of all the powers of the board.

Quorum

(6) Such officers, clerks and servants as are from time to time considered necessary by the Lieutenant Governor in Council for the proper conduct of the business of the board of review may be appointed under *The Public Service Act*.

Staff  
R.S.O. 1970, c. 386

(7) Sittings of the board of review may be held at such places in Ontario and at such times as the board considers most convenient for the proper discharge and speedy dispatch of its business. 1968, c. 39, s. 2, *part*.

Sittings



Review

**12.**—(1) Any applicant or recipient may, by notice in writing served upon the chairman of the board of review, request a hearing and review by the board of a decision, order or directive of the Director affecting the applicant or recipient, as the case may be.

Notice of hearing

(2) Where a hearing and review are requested, the chairman of the board of review shall serve notice upon the applicant or recipient who requested the review notifying him of the time and place of the hearing.

Powers on review

(3) Where a review is taken under this section, the board of review may by its order direct the Director to make such decision as the Director is authorized to make under this Act and as the board considers proper, and thereupon the Director shall act accordingly.

Notice of decision

(4) Notice of the decision of the board of review shall be served forthwith upon the applicant or recipient who requested the review. 1968, c. 39, s. 2, *part*.

Appeal on question of law

**13.**—(1) Where the board of review has reviewed a decision, order or directive and given its decision on the review, the applicant or recipient who requested the review may appeal on a question of law alone to the Court of Appeal.

Form of appeal

(2) Every appeal shall be upon notice of motion served upon the chairman of the board of review within thirty days after the delivery of the notice of decision under subsection 4 of section 12 and the practice and procedure in relation to the appeal shall be the same as upon an appeal from a report or certificate of a Master of the Supreme Court.

Material on appeal

(3) The chairman of the board of review shall certify to the Registrar of the Supreme Court,

- (a) the decision, order or directive that has been reviewed by the board;
- (b) the notice of the hearing before the board;
- (c) the decision upon the review, together with the reasons therefor;
- (d) any intermediate rulings or orders made in the course of the proceedings by the board; and
- (e) all written submissions to the board and other material received by it in connection with the review.

Order for Director's decision

(4) Where an appeal is taken under this section, the court may by its order direct the Director to make such decision as the Director is authorized to make under this Act and as the court considers proper, and thereupon the Director shall act accordingly.

Further applications

(5) Notwithstanding the decision of the board of review or of the court, a further application for a benefit may be made by the

applicant or recipient upon new or other evidence or where it is clear that material circumstances have changed. 1968, c. 39, s. 2, *part.*

**14.**—(1) No person shall knowingly obtain or receive a benefit that he is not entitled to obtain or receive under this Act and the regulations. Offences

(2) No person shall knowingly aid or abet another person to obtain or receive a benefit that such other person is not entitled to obtain or receive under this Act and the regulations. Idem

(3) Every person who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months, or to both fine and imprisonment. 1966, c. 54, s. 12. Idem

**15.** The Lieutenant Governor in Council may make such regulations with respect to benefits as are considered necessary for carrying out the purposes of this Act, and in particular, Regulations

- (a) defining person in need, blind person, disabled person and permanently unemployable person;
- (b) defining classes of educational institutions for the purpose of clause *e* of section 1;
- (c) prescribing additional duties of the Director;
- (d) prescribing the duties of regional administrators and field workers;
- (e) determining residence for the purposes of section 7;
- (f) governing the manner of applying for benefits;
- (g) prescribing the material or proof of any fact, including evidence under oath, that is to be furnished before a benefit is provided or while a benefit is being provided;
- (h) designating the number of members of the board of review, and prescribing its procedures;
- (i) establishing a medical advisory board of one or more persons to advise the Director in the performance of his duties;
- (j) designating benefits or classes of benefits;
- (k) prescribing the maximum amounts of benefits;
- (l) prescribing the manner of computing the amount of benefits;
- (m) prescribing the manner in which and the times and intervals at which an allowance is to be provided;
- (n) providing for the suspension, cancellation, reinstatement and transfer of allowances and other benefits;

- (o) prescribing standards of eligibility for benefits in addition to those mentioned in this Act;
- (p) prescribing classes of persons, in addition to those mentioned in this Act, to whom benefits may be provided;
- (q) requiring and providing for rehabilitation measures;
- (r) providing for the making of investigations for the purposes of this Act of applicants for or recipients or beneficiaries of benefits;
- (s) prescribing forms and providing for their use. 1966, c. 54, s. 13.

Interpre-  
tation

**16.**—(1) In this section, “predecessor Acts” means,

- (a) *The Blind Persons’ Allowances Act*, being R.S.O. 1960, c. 35;
- (b) *The Disabled Persons’ Allowances Act*, being R.S.O. 1960, c. 107; and
- (c) Section 7a of *The General Welfare Assistance Act*, being R.S.O. 1960, c. 164.

New  
applications

(2) Applications for benefits shall be made under this Act and not under any predecessor Act.

Transfers

(3) Where immediately before the Revised Statutes of Ontario, 1970 come into force a person was a recipient under a predecessor Act by virtue of subsection 5 of section 16 of *The Family Benefits Act, 1967*, he shall, if eligible therefor, be paid an allowance under this Act, and his eligibility therefor shall be determined in so far as is possible in accordance with the information contained in the application and other documents on file under the predecessor Act.

Idem

(4) Notwithstanding subsection 3, a recipient under a predecessor Act shall not be transferred under subsection 3 if to do so would result in a reduction of his allowance at the time of his transfer.

Assistance  
limited

(5) A recipient under this Act is not entitled to assistance or an allowance under any predecessor Act. 1966, c. 54, s. 14, *amended*.

Repeal

**17.** The Lieutenant Governor by his proclamation may from time to time repeal any of the predecessor Acts mentioned in subsection 1 of section 16. 1966, c. 54, s. 16.

Moneys

**18.** The moneys required to provide benefits and for the administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1966, c. 54, s. 15, *amended*.

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## CHAPTER 158

## The Farm Loans Act

**1.** In this Act,Interpre-  
tation

- (a) “association” means a farm loan association incorporated under this Act;
- (b) “Commissioner” means the Commissioner of Agricultural Loans;
- (c) “directors” means the directors of a farm loan association;
- (d) “local municipality” means a township or village;
- (e) “secretary-treasurer” means the secretary-treasurer of a farm loan association;
- (f) “Treasurer” means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 133, s. 1, *amended*.

**2.** A farm loan association may be formed for the purpose of loaning money under this Act in any part of Ontario described in the certificate of incorporation. R.S.O. 1960, c. 133, s. 2.

Farm loan  
association

**3.** Where it is desired to form such an association, an application in such form as is prescribed in the regulations and describing the territory for which the association is to be formed shall be forwarded to the Commissioner at Toronto. R.S.O. 1960, c. 133, s. 3.

Application

**4.—(1)** The Commissioner shall name a person to act temporarily as secretary-treasurer of the proposed association, and shall instruct the secretary-treasurer to call a meeting of those interested.

Temporary  
secretary-  
treasurer

(2) At such meeting five provisional directors shall be elected, and the work of organization shall be completed under their direction. R.S.O. 1960, c. 133, s. 4.

Provisional  
directors

**5.** Any person resident in the territory described in the application and actually engaged in farming operations, or agreeing to become so engaged within one year, is eligible for membership. R.S.O. 1960, c. 133, s. 5.

Persons  
eligible for  
membership

**6.** No association shall be deemed to be incorporated until a certificate of incorporation setting forth that all the terms of this Act have been complied with has been issued by the Commissioner as hereinafter provided. R.S.O. 1960, c. 133, s. 6.

Certificate  
of incor-  
poration



Capital  
stock

**7.**—(1) The amount of the capital stock of the association shall be fixed by the Commissioner and shall be made up as follows:

1. One share of par value of \$100 to be subscribed by each member.
2. Shares of par value of \$100 to the extent of one-half of the total amount subscribed by individual members subscribed for by the corporations of local municipalities in the territory for which the association is formed.
3. Shares of par value of \$100 each to the extent of one-half of the total amount subscribed by individual members subscribed for by the Province of Ontario.

Minimum  
number of  
members

(2) No association shall be incorporated or carry on business until at least thirty members have subscribed for stock in the association. R.S.O. 1960, c. 133, s. 7.

Terms of  
payment

**8.** Each member shall pay 10 per cent of the par value of his stock at the time of subscription and the balance when called upon, and payments by municipal corporations and the Province of Ontario shall be made at the same time and in the same proportions as those of individual members. R.S.O. 1960, c. 133, s. 8.

Council of  
local  
municipality  
may  
subscribe

**9.** The council of a local municipality may in its discretion by by-law subscribe to the stock of any association incorporated under this Act to the extent and upon the terms herein provided, and may pay for the stock subscribed for and take all steps incidental thereto and to the carrying out of the provisions of this Act and may issue debentures of the corporation payable within a period not exceeding ten years for the amount of such subscription in the manner provided by *The Municipal Act*, but it is not necessary to submit any by-law for the issue of such debentures to the electors qualified to vote on money by-laws nor to observe the other formalities in relation thereto prescribed by *The Municipal Act*. R.S.O. 1960, c. 133, s. 9.

R.S.O. 1970,  
c. 284

Where two  
or more  
municipalities  
combine

**10.** In the event of two or more municipalities combining in such subscription, the stock held by them may be held in the joint names of the corporations or severally in such proportions as they agree upon, and may be acted upon in such joint or separate manner as they from time to time agree upon. R.S.O. 1960, c. 133, s. 10.

Treasurer,  
when may  
subscribe

**11.** Upon receipt of a report from the Commissioner that an association is being formed in accordance with this Act, the Treasurer, with the approval of the Lieutenant Governor in Council, may subscribe for shares in accordance with paragraph 3 of subsection 1 of section 7, and all necessary payments shall be

made out of the Consolidated Revenue Fund or in bonds or other securities issued or guaranteed by the Province of Ontario. R.S.O. 1960, c. 133, s. 11.

**12.**—(1) To represent the stock subscribed and to assist generally in the conduct of the business of the association, two directors shall be appointed by a municipal corporation subscribing, or if more than one municipal corporation is subscribing, one director shall be appointed by each corporation and in every case two directors shall be appointed by the Lieutenant Governor in Council.

Appointment of directors

(2) Directors named under this section shall serve for a period of two years or until their successors are appointed. R.S.O. 1960, c. 133, s. 12.

Directors' term of office

**13.** Shares owned by members may be transferred to other members or purchased by the association only with the approval of the board of directors. R.S.O. 1960, c. 133, s. 13.

Transfer of shares

**14.**—(1) The secretary-treasurer is responsible for all moneys or securities realized by the sale of capital stock and such moneys or securities shall, where not needed for liabilities, be invested in bonds or debentures of or guaranteed by a government or municipality, as may be ordered by the directors with the approval of the Commissioner.

When moneys to be invested by secretary-treasurer

(2) The secretary-treasurer shall give such security for the due performance of the duties of his office and for the safe custody of the moneys coming to his hands as is prescribed by the regulations, and he shall at all times keep all moneys and securities in his hands separate from his own moneys and shall deposit them in a chartered bank to the credit of the association. R.S.O. 1960, c. 133, s. 14.

Secretary-treasurer to give security

**15.** When capital stock has been arranged for as prescribed, the secretary-treasurer shall call a meeting of the members and the directors named by the subscribing municipality and the Province of Ontario and such meeting shall select the proposed corporate name, to wit "Farm Loans Association of (*insert name*)", and shall complete the organization of the association. R.S.O. 1960, c. 133, s. 15.

Organization of association

**16.**—(1) The subscribing members shall, at such meeting, from among themselves elect a president, vice-president and one director who, with the directors named by the municipality and the Province of Ontario, constitute the board of directors.

Officers

(2) The president, vice-president and director shall hold office for one year or until their successors are elected. R.S.O. 1960, c. 133, s. 16.

Term of office

Application  
for cer-  
tificate of  
incorpora-  
tion

**17.**—(1) The secretary-treasurer, immediately after the holding of the meeting, shall advise the Commissioner that organization has been completed and shall give the names of officers and directors and make application for a certificate of incorporation.

Association,  
when to be  
deemed  
incorporated

(2) Upon receipt of such application, the Commissioner may issue a certificate of incorporation to the association in the name approved and thereupon the association is a body corporate and shall for all purposes be deemed to be duly incorporated and may carry on business and exercise all the powers conferred upon it by this Act.

Vacancy in  
directorate

(3) Upon a vacancy occurring among the directors, the vacancy shall be filled by the body appointing the director whose seat has become vacant.

Quorum

(4) Two of the directors elected by the members and three of the directors appointed by the municipality and the Province of Ontario constitute a quorum of the directors. R.S.O. 1960, c. 133, s. 17.

Appoint-  
ment of  
secretary-  
treasurer

**18.** The board of directors is responsible for carrying on the business of the association, shall appoint a secretary-treasurer, who may or may not be a member, and has power to fix the duties of all officers and, subject to the regulations, make rules governing procedure at all meetings of the directors or the association and the conduct of the association generally. R.S.O. 1960, c. 133, s. 18.

Officers and  
directors to  
be paid only  
for dis-  
bursements

**19.** No officer or director, except the secretary, shall be paid any salary or fee by the association, other than actual disbursements necessarily made in attending to the business of the association and approved by the directors. R.S.O. 1960, c. 133, s. 19.

Annual  
meeting

**20.** An annual meeting of the association shall be held once in every year, between the 1st day of January and the 1st day of March, of which due notice shall be given by the secretary by letters addressed to each subscriber and director, and at such meeting reports shall be presented by the officers showing fully the business done by the association during the last calendar year. R.S.O. 1960, c. 133, s. 20.

Additional  
members,  
when  
admitted

**21.** After the incorporation of an association, additional members may be admitted with the approval of the directors and under such conditions as the directors prescribe. R.S.O. 1960, c. 133, s. 21.

Object

**22.** The object of an association incorporated under this Act is to promote individual prosperity and agricultural development by securing for members short-term loans for current expenditures. R.S.O. 1960, c. 133, s. 22.

**23.** When an association desires to secure credit for its members, the secretary shall advise the Commissioner who shall inform the association as to the facilities available and the steps to be taken in furtherance of this Act. R.S.O. 1960, c. 133, s. 23.

Where  
association  
desires  
credit

**24.—(1)** A member of an association is entitled to apply for a short-term loan for any one or more of the following purposes:

Short-term  
loans may  
be made,  
for what  
purposes

1. Purchase of seed, feed, fertilizer and other supplies.
2. Purchase of implements and machinery.
3. Purchase of cattle, horses, sheep, pigs and poultry.
4. Payment of the cost of carrying on any farming, ranching, dairying or other agricultural operations.
5. Payment of the cost of preparing land for cultivation.
6. Fire or life insurance where required, in the opinion of the directors, as collateral security for a loan made for any of the above-mentioned purposes.

(2) No loan to a member of an association shall exceed in amount \$2,000, but an additional loan or loans may be made to a member if the total amount of indebtedness outstanding on account of the member does not at any time exceed \$2,000. R.S.O. 1960, c. 133, s. 24.

Limit of  
amount of  
loan

**25.** A member of an association desiring a loan shall sign an application in the form prescribed, stating the amount required and the purpose for which it is to be used, and agreeing to repay the loan at a date therein to be named, which shall not be later than the 31st day of December next thereafter, together with interest at the rates fixed in accordance with this Act. R.S.O. 1960, c. 133, s. 25.

Application  
for loan,  
what to  
include

**26.** All such applications shall be delivered to the secretary and shall be presented by him to the directors at the next following meeting, and the directors shall determine whether an application shall be approved, and may approve it in part or on such terms as they consider proper, and may demand such security from the applicant as they think necessary, and in the event of the application being approved in part only or being varied, a new application shall be signed by the applicant in accordance with the approval and the former application cancelled. R.S.O. 1960, c. 133, s. 26.

Approval of  
directors

**27.—(1)** Where an application has been finally approved by the directors, the approval shall be certified on the application in the form prescribed and shall be signed by the secretary and by the president or vice-president, and a record of all applications approved shall be entered in the minutes of the association, and

Form of  
approval



one duplicate or copy thereof shall be delivered to the applicant and another duplicate or copy retained by the association.

Idem

(2) In the event of the absence from any cause of any such officers, the directors may by resolution authorize any other officer to sign the approval in his stead. R.S.O. 1960, c. 133, s. 27.

Original copy of application with approval to be delivered to bank

**28.** Whenever an application has been duly made and approved, the secretary shall deliver the original thereof to such bank or person as the directors have authorized, and shall settle the times and conditions at and upon which the amount shall be advanced, and, upon the same being agreed to by the lender, shall advise the applicant and shall enter a record thereof in the books of the association. R.S.O. 1960, c. 133, s. 28.

Note may be required

**29.** Before any moneys are advanced under an approved application, the lender or association may require the borrower to sign a note or notes for the amount of the moneys to be advanced, and the association shall endorse such note or notes, but the terms of such notes shall not vary in any way from the terms of the approved application or from the provisions of this Act, and the secretary is hereby authorized to endorse such notes on behalf of the association. R.S.O. 1960, c. 133, s. 29.

Interest

**30.** The rate of interest payable by a borrower on a loan guaranteed by an association shall not exceed 7 per cent per annum, and out of the interest paid one-seventh shall be paid to the association for the purposes hereinafter mentioned, which share of interest shall be paid by the lender to the association as soon as the loan and all interest thereon has been received by him and the security given to the lender shall not be surrendered until all such interest charges have been paid. R.S.O. 1960, c. 133, s. 30.

Renewal

**31.** In the event of a borrower not being able to repay the amount of his loan on or before the 31st day of December for reasons that appear to the directors to be justifiable, or on account of the loan having been granted for purposes not productive within one year, the directors may, on the application of the borrower, authorize a renewal of any portion of the loan until such further time as is agreed, but not later than one year next after the maturity of the previous loan, and the application for such renewal loan shall be in the same form as for an original loan, except that it shall be stamped with the word "Renewal", and shall be kept distinct from any new application made by the same borrower, but in all other respects the provisions of this Act relating to applications and the endorsements thereof, and the rights and liabilities arising thereunder, are applicable to such renewals. R.S.O. 1960, c. 133, s. 31.

**32.**—(1) In the event of a borrower failing to pay the amount of his loan, or to renew it within one month from its due date, the lender may demand payment of the amount owing, with interest thereon to date of payment, and the association shall within fifteen days from the receipt of such demand provide for the payment of such amount.

Failure of  
borrower  
to make  
payments

(2) If on the expiry of the fifteen days payment has not been made to the lender, the balance unpaid on the subscriptions of the several members, the municipal corporation and the Province, forthwith becomes due and payable, and the liability of the municipal corporation and of the Province respectively to make payment thereof to the amount of such demand is not contingent upon payment by the members or any of them.

Where  
payment  
not made

(3) Upon payment, the lender shall deliver to the association all securities held by him for the loan or any part thereof, and the association is entitled to recover the amount so paid from the borrower by any means authorized by this Act or by any other statute or law applicable thereto. R.S.O. 1960, c. 133, s. 32.

Where  
payment  
made

**33.** Every lender from whom loans are obtained by an association under this Act shall forward to the Commissioner a monthly return showing each loan made by it under this Act, and the amount advanced at the date of such return and also showing all loans, if any, then past due. R.S.O. 1960, c. 133, s. 33.

Monthly  
return

**34.** All animals, machinery, goods or personal property of any kind purchased or partly purchased with the proceeds of a loan obtained under this Act, or for the purchase of which a loan has been granted, together with the offspring of such animals and the crops or other products grown upon any lands for the working of which such loan has been made or used, are subject to a lien for the amount of the loan in favour of the association approving without any further writing or act by the borrower, and none of such property shall be removed from the premises of the borrower or beyond the limits of the district in which the association is authorized to carry on business during the currency of such loan without the consent of the secretary, except for the purpose of sale, and all proceeds of the sale of any of such property shall without delay be paid to the lender on account of the loan. R.S.O. 1960, c. 133, s. 34.

Security;  
goods  
purchased  
to be  
subject  
to lien

**35.**—(1) The directors may, before granting an application, require such further security as they think necessary, and upon such terms and conditions as they may approve.

Additional  
security

(2) The directors are hereby authorized to take in the name of the association any form of security and to exercise all rights thereunder, and may assign such security, with all rights appertaining thereto, to the lender.

Form and  
assignment  
of security

Powers  
interpreted

(3) The powers of the directors as to taking security in the name of the association includes the power to take, by way of additional security, mortgages on real or personal property or assignments of agreements of sale thereof, and to exercise all rights conferred by such securities. R.S.O. 1960, c. 133, s. 35.

When asso-  
ciation has  
lien on  
personal  
property of  
borrower

**36.**—(1) The association has a lien or charge on all the personal property of the borrower for securing repayment of any such loan, upon filing a certificate of the secretary of the association in the office of the clerk of the county or district court of the county or district in which is situated the land upon which the borrower carries on the operations for which the loan was made to him, showing the amount of the loan and the name and address of the borrower.

Registration  
of certificate

(2) The certificate shall be registered within five days from the date thereof and has effect only from the date of registration.

Discharge  
of lien

(3) The registration in the same office of a subsequent certificate signed by the secretary of the association, showing repayment of such loan, operates as a discharge of such lien.

No charge  
for registra-  
tion

(4) The clerk of the county or district court shall register the certificate and discharge without the payment of any fee therefor. R.S.O. 1960, c. 133, s. 36.

Right of  
entry of  
bank or  
person  
making loan

**37.** The bank or person making a loan or a representative and the association endorsing a loan or an officer or director thereof have the right at any time during the currency of the loan to enter on the premises of the borrower and inquire into the manner in which the borrower is carrying on such farming or other operations as are required for the proper development of the purposes for which the loan was granted, or to ascertain that the terms of the loan are being carried out, or that the security for the loan is in good condition and on the premises of the borrower in the district. R.S.O. 1960, c. 133, s. 37.

Death,  
insolvency,  
or mental  
illness of  
borrower

**38.** In the event of the death, insolvency or mental illness of the borrower, or of his deserting the premises, or of his failure to carry out the purposes of the loan, the directors of the association, or any three of them, may apply to a county court judge for an order placing the association, or a person named by it, in possession of all goods, animals or property covered by any security given under this Act, and of any or all other property, real or personal, of the borrower lying within the municipality that may be required for the proper care, use, or preservation of the security, and the judge has power, after such notice to the borrower as he thinks reasonable, or without notice, to make an order for the purposes aforesaid and to authorize such persons as he names to carry out such order. R.S.O. 1960, c. 133, s. 38.

**39.** No person who has obtained a loan under this Act, any part of which remains unpaid, shall dispose of or attempt to dispose of his stock, chattels or crops otherwise than in the ordinary course of business. R.S.O. 1960, c. 133, s. 39.

Disposing  
of property  
covered  
by lien

**40.** The borrower is personally liable for the payment of the amount of any loan made under this Act, or any balance thereof, and for all interest charges and costs of collection thereof. R.S.O. 1960, c. 133, s. 40.

Borrower  
personally  
liable

**41.** It is not incumbent on any person or bank making a loan under this Act to see to the due application of the moneys loaned, and the misapplication or non-application of such moneys does not affect the security for the loan. R.S.O. 1960, c. 133, s. 41.

Misapplica-  
tion of  
funds not  
to affect  
security

**42.** The directors of an association are qualified to act as a qualification committee under *The Agricultural Development Act*, and members of an association may make application through its secretary for a long-term loan under that Act. R.S.O. 1960, c. 133, s. 42.

Directors  
qualified  
to act as  
qualification  
committee  
R.S.O. 1970,  
c. 10

**43.** The Commissioner has general supervision of all associations, and all books and records of any association shall be open at all times to inspection and audit by the Commissioner or such other person as is named by the Lieutenant Governor in Council. R.S.O. 1960, c. 133, s. 43.

Books and  
records to  
be open to  
inspection

**44.** The moneys received by an association from the share of interest received by it shall be applied,

Application  
of moneys

- (a) in payment of the necessary expenses of the association;
- (b) in payment of a dividend on the paid-up stock of not more than 6 per cent per annum;
- (c) in accumulating a reserve that may, in the discretion of the directors, be invested in the same manner as the capital stock,

and in the event of the dissolution of an association, any accumulated reserve shall be divided among the subscribers in proportion to the amount of the capital stock respectively held by them. R.S.O. 1960, c. 133, s. 44.

**45.** Any person dealing with a borrower or a person believed to be a borrower from an association, and proposing to sell goods on credit or to lend money or make advances to such person, may apply to the secretary of the association for information as to the advances that have been made or authorized to such person and the purposes thereof, and the secretary, on being satisfied of the *bona fides* of the request, shall furnish any information shown on the records of the association at the date of the request. R.S.O. 1960, c. 133, s. 45.

Application  
to secretary  
for informa-  
tion regard-  
ing a  
borrower



## Meetings

**46.** The directors shall hold one or more meetings in each of the months of March and April in every year for the consideration of applications for loans, and shall hold such further meetings as may be required from time to time on the call of the president or on the written request of any three members of the board delivered to the secretary, and the directors shall also hold one or more meetings in the month of January in each year for the consideration of loans, if any, on which the full amount has not been paid prior to the 31st day of December preceding. R.S.O. 1960, c. 133, s. 46.

## Regulations

**47.** The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 133, s. 47.

Treasurer  
may loan  
money to  
associations

**48.** The Treasurer may, with the approval of the Lieutenant Governor in Council, lend money to any such association for the purpose of assisting it to carry on its business on such terms as to interest, repayment and security as are agreed upon. R.S.O. 1960, c. 133, s. 48.

Agreements  
of Treasurer  
with banks,  
etc., to  
secure  
money

**49.** The Treasurer may, with the approval of the Lieutenant Governor in Council, enter into agreements and guarantees with banks, loan companies or other corporations for securing moneys for the purposes of associations, and may make provision for such rates of interest and conditions of repayment as seem proper. R.S.O. 1960, c. 133, s. 49.

Dissolution  
by Lieu-  
tenant  
Governor  
in Council

**50.** Where it appears to the Lieutenant Governor in Council that an association has ceased to operate, he may dissolve it, appoint a liquidator of its estate and effects, and make such provisions as he considers appropriate for the disposal of its property and records. 1966, c. 55, s. 1.

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## CHAPTER 159

## The Farm Loans Adjustment Act

**1.** In this Act,Interpre-  
tation

- (a) "Commissioner" means the Commissioner of Agricultural Loans appointed under *The Agricultural Development Act*;
- (b) "judge" means judge of a county or district court;
- (c) "loan" means a loan made under *The Agricultural Development Act*, *The Farm Loans Act* or *The Northern Development Act* for farming or agricultural purposes and includes an amount owing under an agreement for sale made pursuant to any of such Acts; R.S.O. 1970,  
cc. 10, 158  
R.S.O. 1937,  
c. 34
- (d) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 134, s. 1, amended.

**2.—**(1) A person who is liable for the payment of a loan may make application to the Commissioner to have the loan reviewed by a judge for the purpose of obtaining any or all of the following relief: Applica-  
tion for  
review  
of loan

1. A reduction in the amount of the principal outstanding.
2. A reduction in the amount of the arrears of interest.
3. An extension of the time for payment of the loan.

(2) Every such application shall be in the prescribed form Idem verified under oath and shall be sent in duplicate by registered mail to the Commissioner. R.S.O. 1960, c. 134, s. 2.

**3.—**(1) Within ninety days of receipt of an application under section 2, the Commissioner shall apply to a judge for an appointment for hearing and shall furnish the judge with a copy of the application and of any further material that he considers advisable and the judge shall appoint a time and place for the hearing. Appoint-  
ment for  
hearing

(2) The Commissioner shall cause a copy of the appointment for hearing and of any material that has been furnished to the judge to be sent by registered mail to the applicant at least thirty days before the day named for the hearing. Copy of  
appointment R.S.O. 1960, c. 134,  
s. 3.

**4.—**(1) Upon the hearing, the judge shall consider the re- Order of  
judge presentations of the applicant and the Commissioner and the

evidence adduced and may make such order granting the relief applied for or dismissing the application as he considers proper having regard to,

- (a) the nature and value of the land in respect of which the loan is made and the revenue that it is capable of producing;
- (b) the amount and nature of encumbrances against the land;
- (c) the financial and domestic obligations of the applicant and the income of the applicant from all sources; and
- (d) all other relevant circumstances,

and the order of the judge is final, subject only to such further order as may be made on any subsequent application.

Powers  
of judge  
R.S.O. 1970,  
c. 379

(2) Upon the hearing and review, the judge has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act* and he may hear the submissions and evidence of such persons as he considers advisable. R.S.O. 1960, c. 134, s. 4.

Subsequent  
application

**5.** A subsequent application in respect of any loan may be made after the expiration of a period of two years from the date of an order made upon a previous application. R.S.O. 1960, c. 134, s. 5.

Powers of  
Treasurer

**6.** Subject to the approval of the Lieutenant Governor in Council, the Treasurer may,

- (a) prescribe the form of application for relief and such other forms as he considers necessary;
  - (b) provide for payment of the expenses of every judge to whom an application is made;
  - (c) make such regulations as he considers necessary respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 134, s. 6.
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## CHAPTER 160

## The Farm Products Containers Act

**1.** In this Act,Interpre-  
tation

- (a) “association” means The Ontario Bee-keepers’ Association or The Ontario Fruit and Vegetable Growers’ Association;
- (b) “container” includes any bag, basket, box, can, crate or other receptacle used or suitable for use in the marketing of honey, fruit or vegetables;
- (c) “licence” means a licence provided for under an order;
- (d) “manufacturer” means a person engaged in the business of manufacturing or selling containers used or suitable for use in the marketing of honey, fruit or vegetables;
- (e) “Minister” means the Minister of Agriculture and Food;
- (f) “order” means an order made under section 2;
- (g) “producer” means a person engaged in the production of honey, fruit or vegetables and includes a person engaged in the handling, packing, processing, shipping, transporting, purchasing or selling of honey, fruit or vegetables;
- (h) “product” means honey or any fruit or vegetable.  
R.S.O. 1960, c. 135, s. 1; 1970, c. 49, s. 1, *amended*.

**2.** When the Minister receives from an association a request asking that for the purpose of defraying the expenses of the association, every producer of any product specified in the request who purchases containers therefor, be required to be licensed and to pay licence fees, the Minister, subject to the approval of the Lieutenant Governor in Council, may, if he is of the opinion that the association is fairly representative of such producers, make an order,

Establish-  
ment of fund

- (a) providing for the licensing of every such producer and requiring him to pay licence fees through the manufacturer to the association and fixing the amount of such fees and the times of payment thereof;
- (b) exempting any class of producer from the order;
- (c) requiring every manufacturer who sells containers either directly or indirectly to producers to collect the licence fees from the producers and to pay them to the association;



- (d) prohibiting the association from using any licence fees for the retail or wholesale distribution or processing of the product. R.S.O. 1960, c. 135, s. 2; 1970, c. 49, s. 2.

Offence

**3.** Every person who contravenes any of the provisions of an order of the Minister made under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50 for a first offence and to a fine of not less than \$50 and not more than \$200 for a subsequent offence. R.S.O. 1960, c. 135, s. 3.

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## CHAPTER 161

**The Farm Products Grades and Sales Act****1. In this Act,**Interpre-  
tation

- (a) “farm product” means such animals, animal products, Christmas trees, fruit, fruit products, grains, honey, maple products, seeds, tobacco, vegetables, vegetable products, wood or any class thereof and articles of food or drink manufactured or derived in whole or in part from any of those products as are designated in the regulations;
- (b) “grade” means a grade established under this Act;
- (c) “grader” means a grader appointed under this Act;
- (d) “inspector” means an inspector appointed under this Act;
- (e) “Minister” means the Minister of Agriculture and Food;
- (f) “package” includes any box, crate or other receptacle used for or suitable for use in the marketing, transporting or shipping of a farm product;
- (g) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 136, s. 1; 1964, c. 30, s. 1, *amended*.

**2.—(1) The Lieutenant Governor in Council may make regu- Regulations  
lations,**

- (a) designating as a farm product any farm product or a class thereof or any article of food or drink manufactured or derived in whole or in part from a farm product;
- (b) establishing grades for a farm product;
- (c) providing for the inspecting, grading, packing and marking of farm products;
- (d) respecting the buying, selling, advertising, handling, shipping and transporting of farm products;
- (e) respecting packages for farm products;
- (f) prescribing the manner in which sellers, transporters and shippers of farm products shall identify, for purposes of grading, individual producer’s lots in a shipment;

- (g) prescribing the manner in which shippers or packers shall make returns and prepare for presentation to the producer the statements of accounts of purchase of farm products and for the investigation of such statements and the transactions represented thereby;
- (h) prescribing the fees payable upon the inspection and grading of a farm product;
- (i) prescribing the powers and duties of inspectors and graders;
- (j) providing for the issuing of inspection and grading certificates by inspectors and graders;
- (k) providing for the exemption from this Act or the regulations, or any part thereof, of any person or group of persons;
- (l) respecting the cleanliness and sanitation of premises in which a farm product is stored, processed, graded, packed, sold or offered for sale;
- (m) providing for the issuing of licences for engaging in the marketing or storing of farm products and for operating markets for farm products and for the renewal, refusal, suspension and revocation of such licences;
- (n) prohibiting persons from engaging in the marketing or storing of farm products and from operating markets for farm products except under the authority of a licence under this Act;
- (o) prescribing the terms and conditions upon which licences may be issued, renewed, suspended and revoked and fixing the fees payable therefor;
- (p) prescribing forms and providing for their use;
- (q) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Limitation  
as to time

(2) Any regulation may be limited as to time and place.

Definitions

(3) Any word or expression used in a regulation may be defined in the regulation for the purpose of the regulation. R.S.O. 1960, c. 136, s. 2.

Inspection  
points

**3.**—(1) The Minister may designate places where farm products may be inspected and such highway inspection points as are considered necessary.

Idem

(2) The Minister may, by order, require persons in charge of farm products that are being transported from an area designated by him to proceed to a designated highway inspection point and to remain there until the farm products are inspected. R.S.O. 1960, c. 136, s. 3.

**4.** The Minister may authorize the experimental use of any package, but such package shall be identified and used only in the manner authorized by the Minister. R.S.O. 1960, c. 136, s. 4. Experimental use of packages

**5.** The Minister may appoint inspectors and graders whose duties are to carry out the provisions of this Act. R.S.O. 1960, c. 136, s. 5. Inspectors, appointment

**6.—(1)** Every inspector, for the purpose of enforcing this Act and the regulations, may, Powers of inspectors

- (a) enter any premises, vessel, boat, car, truck or other conveyance used for the storage, processing, grading, packing, selling or offering for sale, shipping or transporting of any farm product and inspect any farm product found therein;
- (b) stop any conveyance that he believes to contain any farm product and inspect such conveyance and any farm product found therein;
- (c) obtain a sample of any farm product at the expense of the owner for the purpose of making an inspection thereof;
- (d) require the production or furnishing of copies of or extracts from any books, shipping bills, bills of lading or other records relating to farm products.

(2) For the purpose of inspecting a farm product, the inspector may detain it at the risk of its owner and, after detaining it, the inspector shall forthwith notify the owner or person who had possession of it of the detention by prepaid telegram or such other means as in the circumstances he considers proper. Detention of product for purpose of inspection

(3) No person shall hinder or obstruct an inspector or a grader in the course of his duties or furnish an inspector or grader with false information or refuse to permit any farm product to be inspected or refuse to furnish an inspector or grader with information. Obstruction of inspector or grader

(4) A person shall, when required by an inspector, produce copies of and extracts from any books, shipping bills, bills of lading and other records relating to any farm product. R.S.O. 1960, c. 136, s. 6. Production of documents

**7.** Any farm product, in respect of which in the opinion of an inspector an offence against this Act or the regulations has been committed, may be placed under detention at the risk and expense of the owner by the inspector until such time as the owner of the farm product complies with this Act and the regulations and, where a person is convicted of an offence in respect of any such farm product, the convicting provincial judge may declare Detention of products



such farm product to be forfeited to Her Majesty, whereupon it may be destroyed or otherwise disposed of as the Minister may direct. R.S.O. 1960, c. 136, s. 7, *amended*.

Detention  
of package

**8.** For the purpose of inspecting a package, an inspector may detain it, including any farm product that may be contained in it, at the risk of its owner, and the provisions of this Act relating to the detaining and placing under detention of farm products apply *mutatis mutandis* to packages and any farm products contained therein. R.S.O. 1960, c. 136, s. 8.

Certificate  
of inspector  
or grader

**9.** The production by an inspector or a grader of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of the fact stated in the certificate and as conclusive proof of the authority of the inspector or grader to inspect or grade any farm product. R.S.O. 1960, c. 136, s. 9.

Offences

**10.**—(1) Except as provided in subsection 2, every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50 for a first offence and to a fine of not less than \$50 and not more than \$500 for a subsequent offence.

Obstruction  
of inspector

(2) Every person who contravenes any of the provisions of subsection 3 of section 6 is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$1,000. R.S.O. 1960, c. 136, s. 10.

Legal  
remedy not  
affected

**11.** No proceedings or conviction under this Act affects the right of any person to any legal remedy to which he would otherwise be entitled. R.S.O. 1960, c. 136, s. 11.

Where  
matter com-  
plained of  
deemed to  
have  
arisen

**12.** For the purpose of jurisdiction, in an information or conviction for a contravention of any of the provisions of this Act or the regulations, the matter complained of may be alleged and shall be deemed to have arisen at the place where the farm product was packed, sold, offered, exposed or had in possession for sale or transportation, as the case may be, or at the residence or usual place of residence of the person charged with the contravention. R.S.O. 1960, c. 136, s. 12.

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## CHAPTER 162

## The Farm Products Marketing Act

**1.** In this Act,Interpre-  
tation

- (a) “Board” means The Farm Products Marketing Board;
- (b) “farm product” means animals, meats, eggs, poultry, wool, dairy products, grains, seeds, fruit, fruit products, vegetables, vegetable products, maple products, honey, tobacco, wood, or any class or part of any such product, and such articles of food or drink manufactured or derived in whole or in part from any such product, and such other natural products of agriculture as are designated in the regulations, and, for the purposes of this Act, fish shall be deemed to be a farm product;
- (c) “licence” means a licence provided for under the regulations;
- (d) “local board” means a board constituted under a plan;
- (e) “marketing” means buying, selling, and offering for sale, and includes advertising, financing, assembling, storing, packing and shipping and transporting in any manner by any person, and “market” and “marketed” have corresponding meanings;
- (f) “Minister” means the Minister of Agriculture and Food;
- (g) “plan” means a plan to provide for the control and regulation of the marketing of a farm product that is in force under this Act, and includes a scheme approved under any predecessor of this Act;
- (h) “regulated product” means a farm product in respect of which a plan is in force;
- (i) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 137, s. 1; 1962-63, c. 45, s. 1, *amended*.

**2.** The purpose and intent of this Act is,Purpose  
of Act

- (a) to provide for the control and regulation in any or all respects of the marketing within Ontario of farm products; and
- (b) where a plan established under this Act for control and regulation of the marketing of a regulated product is

amended to provide for control and regulation in any or all respects of the producing of the regulated product, to provide for control and regulation in any or all respects of the producing and marketing within Ontario of the regulated product,

including the prohibition of such marketing or such producing and marketing, as the case may be, in whole or in part. 1962-63, c. 45, s. 2.

Board  
continued

**3.**—(1) The body corporate known as The Farm Products Marketing Board is continued.

Constitution  
of Board

(2) The Board shall consist of one or more persons who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council. R.S.O. 1960, c. 137, s. 3 (1, 2).

Chairman,  
vice-  
chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Board to act as chairman and one of the members of the Board to act as vice-chairman. R.S.O. 1960, c. 137, s. 3 (3); 1965, c. 39, s. 1 (1).

Allowances  
to members

(4) The members of the Board shall receive such allowances and expenses as the Lieutenant Governor in Council determines. R.S.O. 1960, c. 137, s. 3 (4).

Quorum

(5) At any meeting of the Board, a quorum shall consist of at least three members of the Board, one of whom shall be either the chairman or the vice-chairman. 1965, c. 39, s. 1 (2).

Officers,  
clerks, etc.,  
appoint-  
ment

(6) The Board, subject to the approval of the Lieutenant Governor in Council, may appoint such officers, clerks and employees as it considers necessary, and the remuneration of such officers, clerks and employees shall be determined by the Lieutenant Governor in Council. R.S.O. 1960, c. 137, s. 3 (5).

Authority  
of Board

**4.**—(1) The Board may,

- (a) subject to the regulations, investigate, adjust or otherwise settle any dispute relating to the marketing of a regulated product between producers and persons engaged in marketing or processing the regulated product;
- (b) investigate any matter relating to the producing, marketing or processing of a regulated product;
- (c) after a hearing, prohibit a person engaged in marketing a regulated product from terminating or varying, without just cause, the buying or the selling, as the case may be, of the regulated product;
- (d) investigate the cost of producing, processing and marketing any farm product, prices, price spreads, trade

practices, methods of financing, management policies and other matters relating to the marketing of farm products;

- (e) require persons engaged in producing or marketing a regulated product to register their names, addresses and occupations with the Board or local board;
- (f) require persons engaged in producing or marketing a regulated product to furnish such information relating to the production or marketing of the regulated product, including the completing and filing of returns, as the Board or local board determines;
- (g) appoint persons to inspect the books, records, documents, lands and premises and any regulated product of persons engaged in producing or marketing the regulated product;
- (h) appoint persons to inspect,
  - (i) the books, records and documents,
  - (ii) the lands and premises,
  - (iii) any flue-cured tobacco, and
  - (iv) any growing plants or other development in the producing of flue-cured tobacco,

of persons engaged in the producing of flue-cured tobacco;

- (i) stimulate, increase and improve the marketing of farm products by such means as it considers proper;
- (j) co-operate with a marketing board, local board, marketing commission or marketing agency of Canada or of any province in Canada for the purpose of marketing any regulated product;
- (k) do such acts and make such orders and issue such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations or any plan. R.S.O. 1960, c. 137, s. 4 (1); 1962-63, c. 45, s. 3 (1, 2); 1968-69, c. 36, s. 1 (1-4).

(2) Upon an investigation under this section, the Board has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*.

Powers of investigation  
R.S.O. 1970  
c. 379

(3) The Board may delegate to a local board such of its powers under subsection 1 as it considers necessary, and may, at any time, terminate such delegation. R.S.O. 1960, c. 137, s. 4 (2, 3).

Delegation of powers

(4) The Board may make regulations,

- (a) providing for the filing by each local board with the Board of true copies of,
  - (i) minutes of all meetings of the local board,

Regulations respecting the filing of records with the Board



- (ii) all by-laws of the local board,
  - (iii) all orders and directions of the local board,
  - (iv) all reports of annual operations of the local board,
  - (v) all annual financial statements and audited reports of the local board, and
  - (vi) such further statements and reports as the Board requires from the local board;
- (b) providing for,
- (i) the furnishing to persons engaged in the producing, marketing or processing of a regulated product of copies of the annual statement of operations and the financial report of each local board, and
  - (ii) the publication of the annual statement of operations and the financial report of each local board; and
- (c) providing for the manner in which and fixing the times at which, or within which, copies of minutes, orders, directions, reports and statements shall be filed with the Board, furnished to producers or published, as the case may be, under clause *a* or *b*. R.S.O. 1960, c. 137, s. 4 (4); 1962-63, c. 45, s. 3 (3, 4); 1968, c. 40, s. 1.

Local board  
a body  
corporate

(5) Every local board is a body corporate. R.S.O. 1960, c. 137, s. 4 (5).

Protection  
of board  
members  
and  
employees

(6) No member of the Board or of a local board and no officer, clerk or employee of the Board or of a local board is personally liable for anything done or omitted to be done by it or by him in good faith in the exercise of any power or the performance of any duty under the authority, or purporting to be under the authority, of this Act or the regulations. 1968-69, c. 37, s. 1 (5).

Petition  
for a plan

**5.—**(1) Where the Board receives from a group of producers in Ontario or any part thereof a petition or request asking that a plan be established for the control and regulation of the marketing of a farm product or any class or part thereof and the Board is of the opinion that the group of producers is representative of the persons engaged in the production of the farm product or class or part thereof, the Board may recommend the establishment of such plan to the Minister.

Amendment  
to plan

(2) Where the Board receives from a local board a request that amendment be made to the plan or to regulations under the plan under which the local board is constituted, the Board may recommend such amendment to the Minister. 1962-63, c. 45, s. 4.

**6.**—(1) Notwithstanding section 5, the Lieutenant Governor in Council may make regulations, Regulations re plans and local boards

- (a) establishing, amending and revoking plans for control and regulation of the marketing within Ontario or any part thereof of any farm product and constituting local boards to administer such plans;
- (b) amending any plan that is established for the control and regulation of the marketing of a regulated product to provide for the control and regulation in any or all respects of the producing within Ontario or any part thereof of the regulated product under the plan;
- (c) designating as The Ontario Apple Marketing Commission any local board constituted under a plan to provide for the control and regulation of the marketing of apples;
- (d) defining any word or words for the purpose of any plan;
- (e) giving to any local board any or all of the powers that are vested in a co-operative corporation that is under Part V of *The Corporations Act* as amended from time to time, and providing that in the exercise of such powers the members of the local board shall be deemed to be the shareholders and the directors thereof; R.S.O. 1970, c. 89
- (f) prescribing by-laws for regulating the conduct of the affairs of the Board;
- (g) prescribing by-laws for regulating the government of local boards and the conduct of their affairs, but any local board may make by-laws not inconsistent with this Act, the regulations made under this clause or the regulations made under the plan under which the local board is established as amended from time to time;
- (h) notwithstanding any other Act, providing for,
  - (i) the carrying out by the Board or a trustee of any or all of the powers of a local board,
  - (ii) the vesting of the assets of a local board in the Board or a trustee, and
  - (iii) the disposing of any or all of the assets of a local board in such manner as is prescribed,

and, where any regulation made under this clause is in conflict with any by-law of the local board, the regulation prevails;

- (i) dissolving a local board on such terms and conditions as he considers proper and providing for the disposition of its assets. R.S.O. 1960, c. 137, s. 6 (1); 1962-63, c. 45, s. 5 (1-3); 1968, c. 40, s. 2.

Application  
of plan and  
regulations

(2) A plan or any regulations may apply to all of Ontario or to any area within Ontario and may apply to one or more farm products or any part, class, variety, grade or size of farm product, including any part or class of farm product produced or marketed for a particular purpose, and to any or all persons engaged in producing or marketing one or more farm products or any part, class, variety, grade or size of farm product, including any part or class of farm product produced or marketed for a particular purpose. 1962-63, c. 45, s. 5 (4); 1968-69, c. 37, s. 2.

Contents  
of plan

(3) The method by which the members of a local board shall be appointed, elected or chosen and the application of the plan shall be set out in the plan under which the local board is established.

Acts of  
members  
valid

(4) The acts of a member or an officer of a local board are valid notwithstanding any defects that may afterwards be discovered in his qualifications and appointment or election. R.S.O. 1960, c. 137, s. 6 (3, 4).

Production  
of records,  
etc.

**7.**—(1) Every person, when requested so to do by an officer of the Board or a local board or by a person appointed by the Board or a local board to inspect the books, records and premises of persons engaged in the producing or marketing of a regulated product, shall in respect of the regulated product produce such books and records and permit inspection thereof and supply extracts therefrom and permit inspection of such premises.

Obstruction  
of officers

(2) No person shall hinder or obstruct an officer of the Board or of a local board or a person appointed by the Board or by a local board to inspect the books, records and premises of persons engaged in the producing or marketing of a regulated product in the performance of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information.

Certificate  
of  
appointment

(3) The production by any person of a certificate of his appointment by the Board or a local board to inspect the books, records and premises of persons engaged in the producing or marketing of a regulated product purporting to be signed by the chairman and secretary of the Board or the local board shall be accepted by any person engaged in the producing or marketing of the regulated product as *prima facie* proof of such appointment. R.S.O. 1960, c. 137, s. 7.

Regulations

**8.**—(1) The Board may make regulations generally or with respect to any regulated product. R.S.O. 1960, c. 137, s. 8 (1); 1962-63, c. 45, s. 6 (1).

1. providing for the licensing of any or all persons before commencing or continuing to engage in the producing, marketing or processing of a regulated product;

2. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence;
3. providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility and equipment to engage in properly the business for which the application was made, or for any other reason that the Board considers proper;
4. providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the provisions of this Act, the regulations, any plan or any order or direction of the Board or local board or marketing agency; R.S.O. 1960, c. 137, s. 8 (1), pars. 1-4.
5. providing for the fixing of licence fees payable yearly, half-yearly, quarterly or monthly at different amounts or in instalments from any or all persons producing or marketing the regulated product and the collecting of the licence fees and the recovering of such licence fees by suit in a court of competent jurisdiction; R.S.O. 1960, c. 137, s. 8 (1), par. 6.
6. requiring any person who receives a regulated product to deduct from the moneys payable for the regulated product any licence fees payable to the local board by the person from whom he receives the regulated product, and to forward such licence fees to the local board; 1968, c. 40, s. 3.
7. requiring any person who produces and processes a regulated product to furnish to the Board or the local board statements of the amounts of the regulated product that he produced in any year and used for processing; 1962-63, c. 45, s. 6 (2).
8. prescribing the form of licences; R.S.O. 1960, c. 137, s. 8 (1), par. 8.
9. providing for the exemption from any or all of the regulations, orders or directions under any plan of any class, variety, grade or size of regulated product, or any person or class of persons engaged in the producing or marketing of the regulated product or any class, variety, grade or size of regulated product; 1962-63, c. 45, s. 6 (3).
10. requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of a regulated product and providing for the administration and disposition of any moneys or securities so furnished; R.S.O. 1960, c. 137, s. 8 (1), par 10.



11. providing for the control and regulation of the producing of flue-cured tobacco, including the times and places at which flue-cured tobacco may be produced; 1962-63, c. 45, s. 6 (4), *part*.
12. providing for,
  - i. the marketing of a regulated product on a quota basis,
  - ii. the fixing and allotting to persons of quotas for the marketing of a regulated product on such basis as the Board considers proper,
  - iii. the refusing to fix and allot to any person a quota for the marketing of a regulated product for any reason that the Board considers proper, and
  - iv. the cancelling or reducing of, or the refusing to increase, a quota fixed and allotted to any person for the marketing of a regulated product for any reason that the Board considers proper; 1962-63, c. 45, s. 6 (4), *part*; 1966, c. 56, s. 1 (1).
13. prohibiting,
  - i. any person to whom a quota has not been fixed and allotted for the marketing of a regulated product from marketing any of the regulated product,
  - ii. any person to whom a quota has been fixed and allotted for the marketing of a regulated product from marketing any of the regulated product in excess of such quota, and
  - iii. any person to whom a quota has been fixed and allotted for the marketing of a regulated product produced on land in respect of which such quota was fixed and allotted from marketing any of the regulated product other than the regulated product produced on such land; 1962-63, c. 45, s. 6 (4), *part*.
14. providing for the control and regulation of the marketing of any regulated product, including the times and places at which the regulated product may be marketed; 1966, c. 56, s. 1 (2).
15. providing for the control and regulation of agreements entered into by producers of a regulated product with persons engaged in marketing or processing the regulated product, and the prohibition of any provision or clause in such agreements; 1966, c. 56, s. 1 (3).
16. authorizing a local board to use any class of licence fees, service charges, and other moneys payable to it, for the purposes of paying the expenses of the local board, carrying out and enforcing this Act and the regulations

and carrying out the purposes of the plan under which the local board is established; R.S.O. 1960, c. 137, s. 8 (1), par. 13; 1968-69, c. 37, s. 3 (1).

17. notwithstanding any other Act, providing that no local board shall make grants or other like payments of money to any person or association or body of persons without the approval of the Board; R.S.O. 1960, c. 137, s. 8 (1), par. 14; 1962-63, c. 45, s. 6 (5).
18. authorizing a local board to establish a fund in connection with any plan for the payment of any moneys that may be required for the purposes mentioned in paragraph 16; R.S.O. 1960, c. 137, s. 8 (1), par. 15.
19. providing for the establishment, in connection with any plan, of advisory committees that may be empowered to advise and make recommendations to the local board or to any person or organization represented on the committee in respect of,
  - i. the promotion of harmonious relationships between persons engaged in the production and marketing of the regulated product,
  - ii. the promotion of greater efficiency in the production and marketing of the regulated product,
  - iii. the prevention and correction of irregularities and inequities in the marketing of the regulated product,
  - iv. the improvement of the quality and variety of the regulated product,
  - v. the improvement of the circulation of market information respecting the regulated product,
  - vi. without limiting the generality of any of the foregoing, any matter with respect to which the Board or the local board may be empowered to make regulations under this Act;
20. determining the constitution of such advisory committees and regulating the practice and procedure of such committees; 1965, c. 39, s. 3 (2).
21. providing for the establishment in connection with any plan, negotiating agencies that may be empowered to adopt or settle by agreement any or all of the following matters:
  - i. minimum prices for the regulated product or for any class, variety, grade or size of the regulated product,
  - ii. terms, conditions and forms of agreements relating to the producing or marketing of the regulated product,

- iii. any charges, costs or expenses relating to the production or marketing of the regulated product; R.S.O. 1960, c. 137, s. 8 (1), par. 16.
- 22. providing for the establishment, in connection with any plan, of a conciliation board that may be empowered,
  - i. to endeavour to effect agreement on any matter referred to in paragraph 21 that a negotiating agency has failed to adopt or settle by agreement, and
  - ii. to recommend adoption of any agreement effected under subparagraph i to such negotiating agency; 1965, c. 39, s. 3 (3).
- 23. providing for the arbitration by a board of any matter not adopted or settled by agreement under paragraph 21;
- 24. providing for the arbitration by an arbitrator or by a board of any dispute arising out of any agreement adopted or settled under paragraph 21 or any award made under paragraph 23; R.S.O. 1960, c. 137, s. 8 (1), pars. 17, 18.
- 25. determining the constitution of such negotiating agencies, conciliation boards and boards of arbitration and regulating the practice and procedure of such agencies and boards; R.S.O. 1960, c. 137, s. 8 (1), par. 19; 1965, c. 39, s. 3 (4).
- 26. requiring that no charges, costs or expenses relating to the production or marketing of the regulated product shall be made other than such charges, costs or expenses as are provided in the agreement or award or renegotiated agreement or award in force for the marketing of the regulated product; 1962-63, c. 45, s. 6 (6).
- 27. authorizing any local board to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product and, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the moneys received from the sale in such manner that every producer receives a share of the remainder of the moneys received from the sale in relation to the amount, class, variety, grade or size of the regulated product delivered by him, and authorizing such local board to make an initial payment on delivery of the regulated product and subsequent payments until all of the remainder of the moneys received from the sale is distributed to the producers; 1968-69, c. 37, s. 3 (2).

28. authorizing any local board to require the price or prices payable or owing to the producers for the regulated product to be paid to or through the local board and to recover such price or prices by suit in a court of competent jurisdiction; R.S.O. 1960, c. 137, s. 8 (1), par. 21; 1962-63, c. 45, s. 6 (8).
29. authorizing any local board to prohibit the marketing of any class, variety, grade or size of any regulated product; R.S.O. 1960, c. 137, s. 8 (1), par. 22; 1962-63, c. 45, s. 6 (9).
30. providing for the carrying out of any plan declared by the Lieutenant Governor in Council to be in force;
31. designating as a farm product any article of food or drink manufactured or derived in whole or in part from a farm product or any natural product of agriculture; R.S.O. 1960, c. 137, s. 8 (1), pars. 23, 24.
32. providing for the holding of a plebiscite of producers upon a question of favour of a plan or amendment of a plan or any matter respecting the marketing of a regulated product; 1962-63, c. 45, s. 6 (10).
33. providing for the holding of public hearings on matters respecting the operation of any plan or the holding of a plebiscite of producers; 1962-63, c. 45, s. 6 (12).
34. requiring any person who produces a regulated product to offer to sell and to sell the regulated product to or through the local board constituted to administer the plan under which the regulated product is regulated;
35. prohibiting any person from processing, packing or packaging any of the regulated product that has not been sold to, by or through the local board constituted to administer the plan established for the control and regulation of the marketing of the regulated product;
36. authorizing any local board to appoint agents, to prescribe their duties and terms and conditions of employment and to provide for their remuneration;
37. providing for the making of agreements relating to the marketing of any regulated product by or through a local board, and prescribing the forms and the terms and conditions of such agreements; 1966, c. 56, s. 1 (4).
38. providing for the making of such orders and the issuing of such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations, any plan or any order or direction of the Board or a local board or a marketing agency; and



39. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 137, s. 8 (1), pars. 29, 30.

Agreements  
and awards

(2) Every agreement made under paragraph 21 of subsection 1 and every award made under paragraph 23 or 24 of subsection 1 and every renegotiated agreement or award made under clause *b* of this subsection,

- (a) shall be filed with the Board forthwith after the making thereof and the Board may, notwithstanding any defect in the establishment of the negotiating agency or the board of arbitration, as the case may be, by order declare the agreement or award or renegotiated agreement or award or part thereof to come into force on the day it is so filed or on such later day as is named in the agreement or award or renegotiated agreement or award, as the case may be, and, subject to clause *b*, shall remain in force for one year or for such period as is provided in the agreement or award or renegotiated agreement or award; and

- (b) may at any time upon an order of the Board be renegotiated in whole or in part in such manner as the Board may determine. R.S.O. 1960, c. 137, s. 8 (2); 1962-63, c. 45, s. 6 (13).

Where  
R.S.O. 1970,  
c. 410 not  
to apply

(3) *The Regulations Act* does not apply to any order of the Board made under subsection 2.

Regulations  
may be  
limited

(4) Any regulation made under this section may be limited as to time and place. R.S.O. 1960, c. 137, s. 8 (3, 4).

Delegation  
of powers  
to local  
board

(5) The Board may delegate to a local board such of its powers under subsection 1 as it considers necessary, and may at any time terminate such delegation. R.S.O. 1960, c. 137, s. 8 (5); 1962-63, c. 45, s. 6 (14).

Authority  
of local  
board  
to make  
regulations,  
etc.

(6) Where the Board authorizes a local board to exercise any of the powers mentioned in subsection 1, the local board, in the exercise of such powers, may make regulations or orders or issue directions. 1968-69, c. 37, s. 3 (3).

Regulations  
vesting  
powers in  
local  
board

**9.—**(1) The Board may make regulations vesting in any local board any powers that the Board considers necessary or advisable to enable such local board effectively to promote, regulate and control the marketing of the regulated product, and without limiting the generality of the foregoing, may make regulations, R.S.O. 1960, c. 137, s. 9 (1); 1962-63, c. 45, s. 7 (1).

- (a) vesting in any local board any or all of the following powers:

- (i) to direct and control, by order or direction, either as principal or agent, the marketing of the regulated

- product, including the times and places at which the regulated product may be marketed,
- (ii) to determine the quality of each class, variety, grade and size of the regulated product that shall be marketed by each producer,
  - (iii) to prohibit the marketing of any class, variety, grade or size of the regulated product,
  - (iv) to determine from time to time the price or prices that shall be paid to producers or to the local board, as the case may be, for the regulated product or any class, variety, grade or size of the regulated product and to determine different prices for different parts of Ontario;
  - (v) to fix and impose service charges from time to time for the marketing of the regulated product,
  - (vi) to require the price or prices payable or owing to the producer for the regulated product to be paid to or through the local board,
  - (vii) to collect from any person by suit in a court of competent jurisdiction the price or prices or any part thereof of the regulated product,
  - (viii) to purchase or otherwise acquire such quantity or quantities of the regulated product as the local board considers advisable and to sell or otherwise dispose of any of the regulated product so purchased or acquired,
  - (ix) to pay from service charges imposed under subclause v its expenses in carrying out the purposes of the plan,
  - (x) to pay to to the producers the price or prices for the regulated product less service charges imposed under subclause v and to fix the times at which or within which such payments shall be made; R.S.O. 1960, c. 137, s. 9 (1), cl. (a); 1962-63, c. 45, s. 7 (2-6); 1968-69, c. 37, s. 4 (1-3).
- (b) where a local board has been designated as The Ontario Apple Marketing Commission, vesting in the Commission any or all of the following powers,
- (i) to determine from time to time the price or prices that shall be paid for the regulated product or any class, variety, grade or size of the regulated product to persons engaged in the producing, marketing or processing of the regulated product and to determine different prices for different parts of Ontario,
  - (ii) to require the price or prices payable or owing to any person for the regulated product to be paid to or through the Commission,

- (iii) to collect from any person by suit in a court of competent jurisdiction the price or prices or any part thereof of the regulated product owing to any person engaged in the producing, marketing or processing thereof,
- (iv) to pay to any person engaged in the producing, marketing or processing of the regulated product the price or prices for the regulated product less service charges imposed under subclause v of clause *a* and to fix the times at which or within which such payments shall be made; 1968, c. 40, s. 4 (1).
- (c) providing that the regulated product shall be marketed by or through the local board and prohibiting any person from marketing any of the regulated product except by or through the local board; 1962-63, c. 45, s. 7 (7), *part*.
- (d) providing for statements to be given by any local board to persons engaged in the producing, marketing or processing of the regulated product showing the class, variety, grade or size and the number or quantity of the regulated product marketed, the price or prices paid and the particulars of the service charges imposed by it. 1962-63, c. 45, s. 7 (7), *part*; 1968, c. 40, s. 4 (2).

Powers may  
be limited

(2) Any powers exercisable by a local board may be limited as to time and place. R.S.O. 1960, c. 137, s. 9 (2); 1962-63, c. 45, s. 7 (8).

Power of  
local board  
to make  
regulations,  
etc.

(3) Where the Board vests in a local board any of the powers mentioned in clause *a* or *b* of subsection 1, the local board, in the exercise of such powers, may make regulations or orders or issue directions. 1968-69, c. 37, s. 4 (4).

Board may  
require  
information

(4) The Board may from time to time with respect to any regulated product require the local board to furnish any information that the Board considers necessary to determine the operations of the local board and, without limiting the generality of the foregoing, may require the local board to furnish particulars of,

- (a) the service charges fixed under subclause v of clause *a* of subsection 1;
- (b) the purposes for which the service charges are used and the amounts expended for each purpose;
- (c) any proposed changes in the amounts of the service charges;
- (d) operating deficits or profits and reserves of the local board;
- (e) property leased, owned or otherwise acquired or used by the local board; and

- (f) the purposes of the plan in effect for the marketing of the regulated product. R.S.O. 1960, c. 137, s. 9 (3); 1962-63, c. 45, s. 7 (9-12).

(5) The Board may by order in respect of any regulated product require the local board to fix the service charges under subclause v of clause a of subsection 1 at such amounts, or at amounts not exceeding such amounts, as the Board considers proper. R.S.O. 1960, c. 137, s. 9 (4); 1962-63, c. 45, s. 7 (13).

Maximum  
service  
charges

(6) The Board may require any local board,

Board may  
require  
information

- (a) to furnish to the Board particulars of any proposed change in the purposes of the plan at least ten days before the proposed change becomes effective;
- (b) to carry out any purpose of the plan that the Board considers necessary or advisable;
- (c) to vary any purpose of the plan as the Board considers advisable; and
- (d) to cease or desist from the carrying out of any purpose or proposed purpose of the plan that the Board considers unnecessary or inadvisable. R.S.O. 1960, c. 137, s. 9 (5).

**10.** Where the Board delegates to a local board any of its powers or vests in a local board powers to promote, regulate and control the marketing of a regulated product, the Board may, at any time,

Limitation  
of powers  
of local  
board

- (a) limit the powers of the local board in any or all respects; and
- (b) revoke any regulation, order or direction of the local board made or purporting to be made under such powers. 1962-63, c. 45, s. 8.

**11.—**(1) Where any person considers himself aggrieved by any order, direction or decision of a local board, he may appeal to the local board by serving upon the local board written notice of the appeal.

Appeal to  
local board

(2) Where any person considers himself aggrieved by,

Appeal  
to Board

- (a) any decision of a local board on an appeal under subsection 1; or
- (b) any order, direction or regulation made by the Board,

he may appeal to the Board by serving upon the Board written notice of the appeal.

(3) Every notice under subsection 1 or 2 shall contain a statement of the matter being appealed and the name and address of the person making the appeal.

Notice  
of appeal



Local board  
to provide  
material

(4) Upon receipt of a notice under clause *a* of subsection 2, the Board shall forthwith notify the local board, and the local board shall thereupon forthwith provide the Board with all relevant by-laws, orders, directions, regulations, documents and other material, of any kind whatsoever, in its possession.

Notice  
of hearing

(5) In any appeal under subsection 1 or 2, the Board or the local board, as the case may be, shall, within seven days after the notice referred to in subsection 1 or 2 is received, serve notice upon the person making the appeal of the date, time and place at which the appeal will be heard.

Hearing

(6) The Board or the local board, as the case may be, shall hear and decide any appeal under subsection 1 or 2 within thirty days after the notice of appeal is received, but the Board or the local board may, at the request of the person making the appeal, adjourn the hearing from time to time for such period or periods of time as the Board or the local board considers just.

Right to  
be heard

(7) At any hearing under this section, the person making the appeal has the right to attend and make representations and to adduce evidence respecting the appeal either by himself or through counsel.

Idem

(8) At any hearing of an appeal under clause *a* of subsection 2, the local board has the right to attend and make representations and to adduce evidence respecting the appeal either by its officers, or any of them, or through counsel.

Disposition  
of appeal

(9) Upon an appeal to the Board under clause *a* of subsection 2, the Board may, by order, direct the local board to take such action as the local board is authorized to take under this Act and as the Board considers proper, and for this purpose the Board may substitute its opinion for that of the local board.

Notice  
of decision

(10) The Board or the local board, as the case may be, shall, within ten days after the hearing is completed, serve notice upon the person making the appeal of its decision.

Substantial  
compliance

(11) A proceeding that is in substantial compliance with this section is not open to objection on the ground that it is not in strict compliance therewith.

Service  
of notice

(12) Where a notice is served under this section, it may be served personally or,

(a) where the notice is served on the Board or a local board, by mailing the notice to the address of the Board or of the local board, as the case may be, at its usual business address; or

(b) where the notice is served on a person making an appeal, by mailing the notice to the address shown in his notice of appeal.

(13) After the Board or a local board has decided an appeal under this section, the Board or local board may reopen the hearing on its own motion and make a new decision, and the procedure for an appeal under this section applies to the rehearing. 1965, c. 39, s. 4, *part*. Rehearing

**12.**—(1) Any person who is a producer and a processor of a regulated product is entitled in his respective capacities as a producer and as a processor to all the rights and privileges and is subject to all the duties and obligations of a producer and a processor. Producer-processors

(2) Any person who is a producer and a person engaged in marketing a regulated product is entitled in his respective capacities as a producer and as a person engaged in marketing the regulated product to all the rights and privileges and is subject to all the duties and obligations of a producer and a person engaged in marketing the regulated product. 1968-69, c. 37, s. 5, *part*. Producer and person marketing regulated product

**13.** The moneys required for the administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 137, s. 11. Administration of Act

**14.**—(1) Where the Board receives from a group of producers in Ontario or any part thereof a petition or request asking that an association of producers of a farm product, other than a regulated product, incorporated under *The Agricultural Associations Act* or *The Corporations Act* or any predecessor of either of such Acts, and having as its objects the stimulating, increasing and improving of the marketing locally within Ontario of the farm product by advertising, education, research or other means, be designated as the representative association for all producers in Ontario of that farm product, the Board shall, Petition for designation of association of producers  
R.S.O. 1970, cc. 8, 89

- (a) obtain such information as it considers necessary to determine that the association is representative of the persons engaged in the production of the farm product;
- (b) consider any proposed program of the association for the stimulating, increasing or improving of the marketing locally within Ontario of the farm product; and
- (c) obtain estimates of the cost of carrying out such program.

(2) Where the Board is of the opinion that a majority of the producers in Ontario of the farm product mentioned in subsection 1 are in favour of the designation of the association as the representative association of all producers of that farm product in Ontario and are in favour of a proposed program of the association for stimulating, increasing and improving the marketing of the farm product, the Board may recommend to the Minister the Recommendation by Board for designation of association and establishment of program

designation of the association as the representative association of producers of the farm product within Ontario and the establishment of such program.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

R.S.O. 1970,  
cc. 8, 89

- (a) designating any association of producers of a farm product, other than a regulated product, incorporated under *The Agricultural Associations Act* or *The Corporations Act* or any predecessor of either of such Acts, as the representative association of producers of the farm product within Ontario for the carrying out of a program for stimulating, increasing and improving the marketing locally within Ontario of the farm product by advertising, education, research or other means;
- (b) establishing, amending and revoking any program for stimulating, increasing and improving the marketing locally within Ontario of a farm product, other than a regulated product;
- (c) requiring producers of the farm product to pay licence fees to the association;
- (d) designating the amounts of licence fees and requiring payment of the fees in different amounts or in instalments;
- (e) requiring persons who buy the farm product from a producer to deduct from moneys payable to the producer any licence fees payable by the producer and to forward such licence fees to the association;
- (f) authorizing the association to use the licence fees for the purposes of defraying the expenses of the association in the carrying out of its objects;
- (g) requiring the association to furnish to the Board such information and financial statements as the Board determines.

Where  
producers  
deemed  
licence  
holders

(4) Where the Lieutenant Governor in Council makes regulations establishing a program under subsection 3, every producer of the farm product shall be deemed to be the holder of a licence for the production of the farm product.

Limitations  
and  
exceptions

(5) Any regulation under subsection 3 may,

- (a) be limited as to time and place;
- (b) exempt from the regulations any person or class of persons or any class, variety, grade or size of the farm product; and
- (c) fix licence fees of different amounts for different classes, varieties, grades or sizes of the farm product.

(6) Where a regulation has been made under subsection 3, the Board may,

Inspection of  
records and  
furnishing  
of informa-  
tion

- (a) appoint any person to inspect the books, records and premises of persons who produce or buy the farm product, and section 7 applies *mutatis mutandis* in respect of a person so appointed; and
- (b) require persons engaged in producing or buying the farm product to furnish such information and make such returns and reports as the Board determines. 1964, c. 31, s. 1, *part*.

**15.** Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations or any plan, order, direction, agreement, award or renegotiated agreement or award made under this Act has been or is being committed by any person engaged in marketing or processing a regulated product, the Supreme Court or a judge thereof may, upon the application of the Board or a local board, enjoin any such person from continuing to engage in marketing or processing the regulated product absolutely or for such period as seems just, and any injunction cancels the licence, if any, of the person named in the order for the same period. 1968-69, c. 37, s. 5, *part*.

Injunction  
proceedings

**16.** Every person who fails to comply with or contravenes any of the provisions of this Act, or of the regulations, or of any plan, or of any order, regulation or direction of the Board or any local board or of any agreement or award or renegotiated agreement or award filed with the Board is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$5,000. 1968-69, c. 37, s. 6.

Offences

**17.—(1)** Every person who fails to pay at least the minimum price established for a regulated product in an agreement or award filed with the Board or the price of a regulated product determined by a local board is, in addition to the fine provided for in section 16, liable to a penalty of an amount equal to the amount of such minimum or determined price, less any amount paid by such person as payment in full or in part for such regulated product.

Failure  
to pay  
minimum  
price

(2) Every penalty imposed under subsection 1 shall be paid to the local board and the local board shall,

Disposition  
of penalty

- (a) distribute the money so paid *pro rata* among the persons who failed to receive at least the minimum or determined price; or
- (b) use the money to stimulate, increase and improve the marketing of the regulated product. 1968-69, c. 37, s. 7.



Moneys  
received  
by Board

**18.** All moneys received by the Board shall be deposited to the credit of the Consolidated Revenue Fund. R.S.O. 1960, c. 137, s. 15.

Evidence

**19.** In an action or prosecution under this Act where the production of an agreement, award, order, regulation, direction, rule, resolution, determination or minute of the Board or a local board is required, any document purporting to be a copy of such agreement, award, order, regulation, direction, rule, resolution, determination or minute, certified to be a true copy thereof by the chairman or secretary of the Board or the local board, as the case may be, is admissible in evidence as *prima facie* proof of the making and the text thereof without production of the original document and without proof of the signature of the person purporting to have certified it. 1962-63, c. 45, s. 10.

Onus in  
action or  
prosecution

**20.**—(1) In an action or prosecution under this Act, the onus is upon the defendant or the accused, as the case may be, to prove that the product in respect of which the action or prosecution is brought is not a regulated product within the meaning of this Act. R.S.O. 1960, c. 137, s. 17 (1).

Evidence  
applicable  
R.S.C. 1952,  
c. 6

(2) In a prosecution under the *Agricultural Products Marketing Act* (Canada), the provincial judge, if he finds that the offence is not proved under that Act but the evidence establishes an offence of a similar kind in relation to the control or regulation of the marketing of the regulated product locally within Ontario under section 16 or 17, may convict the accused under this Act notwithstanding that no information has been laid under this Act. R.S.O. 1960, c. 137, s. 17 (2), *amended*.

Interpre-  
tation

**21.**—(1) In this section,

- (a) “local board” means The Ontario Flue-Cured Tobacco Growers’ Marketing Board;
- (b) “producing” means planting, growing, harvesting, curing or preparing for sale, and “produced” and “production” have corresponding meanings;
- (c) “tobacco” means unmanufactured flue-cured tobacco produced in Ontario;
- (d) “tobacco acreage” means a number of acres of land fixed and allotted to a person for the producing in any year of tobacco on a tobacco farm; and
- (e) “tobacco farm” means one or more parcels of land in respect of which the Board or the local board determines,
  - (i) the land is suitable for the producing of tobacco, and

- (ii) the producer has provided such buildings or other structures and equipment as are suitable and adequate for the producing of tobacco,

and in respect of which the Board or the local board, as the case may be, allots a tobacco acreage. 1962-63, c. 45, s. 11, *part*; 1966, c. 56, s. 2 (1).

(2) The Board may make regulations,

Regulations  
re tobacco

- (a) notwithstanding paragraph 3 of subsection 1 of section 8, providing for the refusal to grant a licence for the producing of tobacco for any reason that the Board considers proper;
- (b) providing for,
  - (i) the producing of tobacco on a basis of tobacco acreage or other production quota,
  - (ii) the fixing and allotting to persons of tobacco acreages or other production quotas on such basis as the Board considers proper,
  - (iii) the refusing to fix and allot to any person a tobacco acreage or other production quota for any reason that the Board considers proper, and
  - (iv) the cancelling or reducing of, or the refusing to increase, a tobacco acreage or other production quota fixed and allotted to any person for any reason that the Board considers proper;
- (c) prohibiting,
  - (i) any person to whom a tobacco acreage or other production quota has not been fixed and allotted from producing tobacco,
  - (ii) any person to whom a tobacco acreage or other production quota has been fixed and allotted from producing any tobacco on acreage in excess of the tobacco acreage, or other production quota, fixed and allotted to such person, and
  - (iii) any person from producing tobacco on land other than a tobacco farm in respect of which a tobacco acreage or other production quota has been fixed and allotted to such person;
- (d) providing for the seizing, removing, destroying or otherwise disposing of any growing tobacco plants or tobacco produced or marketed in contravention of this Act or the regulations, and the retention or disposition by the local board of any proceeds of the sale thereof. 1962-63, c. 45, s. 11, *part*; 1965, c. 39, s. 5 (1); 1966, c. 56, s. 2 (2).

Regulations  
may be  
limited

(3) Any regulation made under this section may be limited as to time and place.

Delegation  
of powers to  
local board

(4) The Board may delegate to the local board such of the powers under subsection 2 as it considers necessary and may at any time terminate such delegation. 1962-63, c. 45, s. 11, *part*.

Penalty

(5) Notwithstanding section 16, every person who fails to comply with or contravenes any of the provisions of this section or of any regulation, order or direction of the Board or the local board made pursuant to this section is guilty of an offence and on summary conviction is liable, for a first offence, to a fine of not more than \$500 and, for a subsequent offence, to a fine of not less than \$500 and not more than \$5,000. 1965, c. 39, s. 5 (2).

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## CHAPTER 163

### The Farm Products Payments Act

**1.** In this Act,

Interpre-  
tation

- (a) “board” means a board established under this Act;
- (b) “dealer” means a person engaged in the business of buying farm products from producers or in selling farm products on behalf of producers;
- (c) “farm product” means such animals, milk, cream or cheese or such classes thereof as are designated in the regulations;
- (d) “fund” means a fund established under this Act;
- (e) “Minister” means the Minister of Agriculture and Food;
- (f) “producer” means a person who produces a farm product and includes such marketing boards under *The Milk Act* as are designated in the regulations;
- (g) “regulations” means regulations made under this Act. 1967, c. 27, s. 1.

R.S.O. 1970,  
c. 273

**2.—(1)** The Lieutenant Governor in Council may establish a fund for any class of producers under this Act and, where a fund is established, shall constitute a board to administer the fund and designate the name by which the board shall be known.

Funds  
and  
boards

(2) The Lieutenant Governor in Council may appoint the members of a board and fix the remuneration of members who are not employed in the public service of Ontario.

Appoint-  
ments and  
remunera-  
tion

(3) The Lieutenant Governor in Council may dissolve a board on such terms and conditions as he considers proper and may provide for the disposition of its assets and any fund administered by it.

Dissolution

(4) The Lieutenant Governor in Council may designate The Milk Commission of Ontario under subsection 1 as a board constituted for the purposes of this Act and, when so designated, The Milk Commission of Ontario shall be deemed for the purposes of this Act, other than subsections 5 and 6, to be a board constituted under subsection 1.

Milk Com-  
mission  
may be a  
board

(5) Every board shall be a corporation without share capital responsible to the Minister.

Incorporation



R.S.O. 1970,  
c. 89 does  
not apply

Officers and  
servants  
R.S.O. 1970,  
c. 386

Experts

Immunity  
of  
members

Application  
for  
payment  
from fund

R.S.C. 1952,  
c. 14  
R.S.O. 1970,  
c. 52

Functions  
of a board

Refund  
where  
payment  
received  
twice

Subro-  
gation

(6) *The Corporations Act* does not apply to a board.

(7) Such officers and servants may be appointed or transferred under *The Public Service Act* as are considered necessary from time to time for the proper conduct of the affairs of boards.

(8) A board may engage persons other than those referred to in subsection 7 to provide professional, technical or other assistance to or on behalf of the board.

(9) No member of a board or member of the staff thereof is personally liable for anything done by it or by him in good faith under the authority or purporting to be under the authority of this Act. 1967, c. 27, s. 2.

**3.** Where a farm product is sold by or on behalf of a producer and,

(a) the dealer has not paid the producer the price of the farm product within fifteen days of the time the payment became due; or

(b) the whole or any part of the dealer's assets has been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or *The Bulk Sales Act*,

the producer may apply to the board that administers the fund for the farm product claiming payment from such fund. 1967, c. 27, s. 3.

**4.—**(1) It is the function of a board and it has power,

(a) to administer its fund;

(b) to investigate all claims made to it under this Act and to determine the extent of their validity;

(c) to grant or refuse the payment of claims or any part thereof and determine the amounts and manner of payment;

(d) to recover any moneys to which it is entitled under this Act by suit in a court of competent jurisdiction or otherwise.

(2) Where a producer has received a payment from a fund and receives a payment from or on behalf of the dealer in full or partial satisfaction of the same debt for which payment from the fund was made, the producer shall pay to the board the lesser of,

(a) the moneys that he received from or on behalf of the dealer; or

(b) the moneys that he received from the fund.

(3) Where an amount is paid out of a fund, the board administering the fund is subrogated for the amount of the

payment to the right of the person to whom such amount is paid and may maintain an action in the name of the board or in the name of such person against any other person or persons to enforce such right. 1967, c. 27, s. 4.

**5.**—(1) All moneys to which a board is entitled shall be paid into the fund administered by it. Payments into fund

(2) The expenses of a board, other than for the remuneration of its officers and servants who are employed in the public service of Ontario, shall be paid by the board out of the fund administered by it. Payments out of fund

(3) If, at any time, the amount standing to the credit of a fund is insufficient for the purpose of making payments for claims under this Act, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to advance out of the Consolidated Revenue Fund to the board that administers the fund such sums as are necessary to meet the deficit on such terms and conditions as the Lieutenant Governor in Council directs. Advances to funds

(4) A board may pay into the Consolidated Revenue Fund any surplus moneys in its fund that are not necessary for the current requirements of the board, and section 16 of *The Financial Administration Act* applies thereto. Surplus  
R.S.O. 1970, c. 166

(5) The accounts and financial transactions of a board shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the board and to the Minister. 1967, c. 27, s. 5. Audit

**6.**—(1) Every board shall make an annual report of its affairs to the Minister. Annual report

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next ensuing session. 1967, c. 27, s. 6. Tabling

**7.** Failure to pay a fee prescribed in the regulations shall be grounds for the suspension or revocation of or refusal to issue or renew any licence under *The Milk Act*. 1967, c. 27, s. 7. Failure to pay fees  
R.S.O. 1970, c. 273

**8.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) designating farm products for the purposes of clause *c* of section 1;
- (b) designating marketing boards under *The Milk Act* as producers for the purposes of clause *f* of section 1;
- (c) exempting any class or classes of dealers from the application of this Act;

- (d) prescribing by-laws for regulating the government of boards and the conduct of their affairs, but any board may make by-laws not inconsistent with this Act or with the regulations;
  - (e) requiring dealers to pay fees to a board and prescribing the amounts and the times and manner of payment thereof;
  - (f) providing procedures for the determination and payment of claims including the grounds upon which a board may pay or refuse to pay claims;
  - (g) limiting the amount that may be paid out of a fund,
    - (i) to any producer or class thereof, or
    - (ii) respecting any dealer or class thereof;
  - (h) prescribing forms and providing for their use;
  - (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1967, c. 27, s. 8.
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CHAPTER 164

The Fatal Accidents Act

1. In this Act,

Interpre-  
tation

- (a) “child” includes son, daughter, grandson, granddaugh-  
ter, stepson, stepdaughter, adopted child, and a person  
to whom the deceased stood *in loco parentis*;
- (b) “parent” includes father, mother, grandfather, grand-  
mother, stepfather, stepmother, a person who adopted a  
child, and a person who stood *in loco parentis* to the  
deceased. R.S.O. 1960, c. 138, s. 1.

2. Where the death of a person has been caused by such  
wrongful act, neglect or default, as, if death had not ensued,  
would have entitled the person injured to maintain an action and  
recover damages in respect thereof, the person who would have  
been liable, if death had not ensued, is liable to an action for  
damages, notwithstanding the death of the person injured, and  
although the death was caused under circumstances amounting in  
law to culpable homicide. R.S.O. 1960, c. 138, s. 2.

Liability for  
damages  
where death  
caused by  
wrongful  
act, neglect  
or default

3.—(1) Every action brought under this Act is for the benefit  
of the wife, husband, parent and child of the person whose death  
was so caused, and, except as hereinafter provided, shall be  
brought by and in the name of the executor or administrator of  
the deceased, and in every such action such damages may be  
awarded as are proportioned to the injury resulting from the  
death to the persons respectively for whom and for whose benefit  
the action is brought, and the amount so recovered, after  
deducting the costs not recovered from the defendant, shall be  
divided among the above-mentioned persons in such shares as are  
determined at the trial.

For whose  
benefit and  
in whose  
name action  
to be  
brought

(2) In an action brought under this Act where funeral expenses  
have been incurred by the parties for whose benefit the action is  
brought, damages may be awarded not exceeding \$300 for the  
necessary expenses of the burial of the deceased, except that,  
where the body of the deceased is transported a considerable  
distance for burial, further damages may be awarded for the  
necessary extra expenses of burial thus entailed.

Funeral  
expenses

(3) In assessing the damages in an action brought under this  
Act there shall not be taken into account any sum paid or payable  
on the death of the deceased or any future premiums payable  
under a contract of insurance. R.S.O. 1960, c. 138, s. 3.

Assessment  
of damages,  
insurance  
premiums



How money  
may be paid  
into court

**4.** The defendant may pay into court one sum of money as compensation for his wrongful act, neglect or default, to all persons entitled to compensation without specifying the shares into which it is to be divided. R.S.O. 1960, c. 138, s. 4.

One action  
only lies  
for the same  
cause

**5.** Not more than one action lies for and in respect of the same subject-matter of complaint, and every such action shall be commenced within twelve months after the death of the deceased and not afterwards. R.S.O. 1960, c. 138, s. 5.

Particulars  
of bene-  
ficiaries

**6.—(1)** The plaintiff shall, in his statement of claim, set forth the persons for whom and on whose behalf the action is brought.

Proof as  
to persons  
entitled

(2) There shall be filed with the statement of claim an affidavit by the plaintiff in which he shall state that to the best of his knowledge, information and belief the persons on whose behalf the action is brought as set forth in the statement of claim are the only persons entitled or who claim to be entitled to the benefit thereof.

Dispensing  
with proof

(3) The court in which the action is brought, if of opinion that there is a sufficient reason for doing so, may dispense with the filing of the affidavit. R.S.O. 1960, c. 138, s. 6.

When action  
may be  
brought by  
persons  
beneficially  
interested

**7.—(1)** If there is no executor or administrator of the deceased, or if there is such executor or administrator and no such action is, within six months after the death of the deceased, brought by such executor or administrator, the action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by such executor or administrator. R.S.O. 1960, c. 158, s. 7 (1), *amended*.

Regulations  
and pro-  
cedure in  
such case

(2) Every action so brought is for the benefit of the same persons and is subject to the same regulations and procedure, as nearly as may be, as if it were brought by such executor or administrator. R.S.O. 1960, c. 138, s. 7 (2).

Apportion-  
ment

**8.—(1)** Where the compensation has not been otherwise apportioned, a judge in chambers may apportion it among the persons entitled.

When pay-  
ment may  
be  
postponed

(2) The judge may in his discretion postpone the distribution of money to which infants are entitled and may direct payment from the undivided fund. R.S.O. 1960, c. 138, s. 8.

Where  
several  
actions  
brought  
by rival  
claimants

**9.** Where actions are brought by or for the benefit of two or more persons claiming to be entitled, as wife, husband, parent or child of the deceased, the court in which the actions or either of them are pending may make such order as it considers just for the determination not only of the question of the liability of the defendant but of all questions as to the persons entitled under this Act to the damages, if any, that may be recovered. R.S.O. 1960, c. 138, s. 9.

CHAPTER 165

The Ferries Act

1. Except as otherwise provided in this Act, every grant or licence of ferry shall be by the Lieutenant Governor under the Great Seal and shall not extend for a longer term than seven years at any one time. R.S.O. 1960, c. 141, s. 1.

Issue and duration of licences

2. Except as otherwise provided in this Act, no ferry shall be leased by the Crown nor shall any lease thereof be renewed or any licence of ferry be granted by the Crown except by public competition and after notice of the time and place at which tenders will be received for the lease or licence for such ferry inserted at least once in each of four consecutive weeks in *The Ontario Gazette* and in one or more of the newspapers published in the county or district in which the ferry is situate and to persons giving such security as the Lieutenant Governor in Council may prescribe. R.S.O. 1960, c. 141, s. 2.

Requisites to issue

3. Except in the case of municipalities as hereinafter provided, where the limits to which the exclusive privilege of any ferry extends are not already defined, such exclusive privilege shall not be granted for a greater distance than one and one-half miles on each side of the place at which the ferry is usually kept, but nothing herein invalidates or infringes upon any existing grant or right of ferry. R.S.O. 1960, c. 141, s. 3.

Limits for ferries

4.—(1) Where a ferry is required over any stream or other water and the two shores are in different local municipalities not in the same county, or one shore is in a city or town separated from a county and the other is in another municipality in the same county, the Lieutenant Governor may grant a licence to either of such municipalities exclusively, or to both jointly, or to either of the counties or to both jointly, or to one of the counties jointly with a city or town, as he considers most conducive to the public interest.

Licence for ferry between two municipalities

(2) The licence shall confer the right to establish a ferry from shore to shore on such stream or other water, with such limits and extent as appear advisable to the Lieutenant Governor in Council and are expressed in the licence.

Extent of right conferred, etc.

(3) The licence shall be upon conditions as to the description of craft and motive power to be used and upon such further terms and conditions as the Lieutenant Governor in Council may direct, and the terms and conditions shall be expressed in the licence.

Conditions of licence as to motive power and other matters

Municipalities  
subletting  
ferries

(4) The council of the municipality may pass by-laws, not inconsistent with the terms of the licence, for subletting the ferry to such person and upon such terms and conditions as the council thinks fit.

Concurrence  
of municipa-  
lities  
where joint  
licence

(5) Where a licence is granted to two municipalities jointly, no by-law of the council of one municipality has any force until a by-law has been passed in similar terms, as nearly as may be, by the council of the other municipality.

Application  
of certain  
provisions  
excluded

(6) The provision as to the duration of the licence in section 1 and the provisions of section 2 do not apply to this section. R.S.O. 1960, c. 141, s. 4.

Municipal  
by-laws to  
establish,  
operate and  
licence  
ferries

**5.—**(1) The council of any township, town or village may pass by-laws for establishing and for maintaining and operating, and the council of any municipality, other than a county, may pass by-laws for licensing upon such terms and conditions as are considered proper and for regulating ferries between any two places in the municipality or over any navigable waters in or upon the boundary of the municipality, and for establishing the rates of ferriage to be taken thereon, but no such by-law has effect until approved by the Lieutenant Governor in Council.

Powers of  
county  
councils

(2) The council of any county has the like power in regard to ferries between places that are both situate in the county but not in the same local municipality, provided that neither of such places is situate in a city or separated town.

Powers of  
Lieutenant  
Governor in  
Council

(3) Until the council exercises the powers conferred by this section, the Lieutenant Governor in Council may license and regulate such ferries and establish the rates of ferriage to be taken thereon. R.S.O. 1960, c. 141, s. 5.

Granting  
exclusive  
privileges

**6.** The council of any municipality may grant exclusive privileges in any ferry vested in the corporation of the municipality. R.S.O. 1960, c. 141, s. 6.

Right of  
persons to  
keep boats  
at ferry for  
their own  
use

**7.** Any person may keep at a ferry a boat, vessel or other craft for his own private use, or may use, for the accommodation of himself or of his employer, his own or his employer's boat, vessel or craft to cross the stream or other water on which the ferry is situate, but such privilege shall not be used for the purpose of taking, carrying or conveying any other person or property for hire, gain, reward or profit, or hope thereof, or directly or indirectly to enable any such other person to evade the payment of tolls at the ferry. R.S.O. 1960, c. 141, s. 7.

Penalty for  
interfering  
with licensed  
ferryman's  
rights

**8.** If any person unlawfully interferes with any right or licence of ferry by taking, carrying or conveying at any ferry across the stream or other water on which it is situate any person, cattle, carriage or wares in any boat, vessel or other craft for hire, gain,

reward, profit, or hope thereof, or unlawfully does any other act or thing to lessen the tolls and profits of any lessee or licensee of the Crown of any such ferry, the offender is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1960, c. 141, s. 8, *amended*.

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## CHAPTER 166

**The Financial Administration Act****1. In this Act,**Interpre-  
tation

- (a) “appropriation” means an authority to pay money out of the Consolidated Revenue Fund;
- (b) “Consolidated Revenue Fund” means the aggregate of all public moneys that are on deposit at the credit of the Treasurer or in the name of any agency of the Crown approved by the Lieutenant Governor in Council;
- (c) “Crown” means the Crown in right of Ontario;
- (d) “department” means a department of the Government of Ontario, and includes a board, commission, authority, corporation and any other agency of the Government of Ontario;
- (e) “Deputy Treasurer” means the Deputy Treasurer of Ontario and Deputy Minister of Economics;
- (f) “fiscal agent” means a fiscal agent appointed under section 41;
- (g) “fiscal year” means the period from the 1st day of April in one year to the 31st day of March in the next year;
- (h) “minister” means a member of the Executive Council;
- (i) “money” includes negotiable instruments;
- (j) “money paid to Ontario for a special purpose” includes money that is paid to a public officer under or pursuant to a statute, trust, undertaking, agreement or contract and that is to be disbursed for a purpose specified in or pursuant to such statute, trust, undertaking, agreement or contract;
- (k) “negotiable instrument” includes a cheque, draft, traveller’s cheque, bill of exchange, money order and any similar instrument;
- (l) “public money” means all money belonging to Ontario received or collected by the Treasurer or by any other public officer or by any person authorized to receive and collect such money and includes,
  - (i) special funds of Ontario and the income and revenue therefrom,
  - (ii) revenues of Ontario,

- (iii) money raised by way of loan by Ontario or received by Ontario through the issue and sale of securities, and
- (iv) money paid to Ontario for a special purpose;
- (m) “public officer” includes a minister and a person employed in a department;
- (n) “registrar” means a registrar appointed under section 41;
- (o) “Treasurer” means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 142, s. 1; 1968, c. 41, s. 1, *amended*.

## PART I

### ORGANIZATION

Treasury  
Board,  
composition

**2.**—(1) The Treasury Board shall be composed of the Treasurer, who shall be the chairman, and not fewer than four and not more than seven other members of the Executive Council as are designated from time to time by the Lieutenant Governor in Council.

Alternate  
members

(2) The Lieutenant Governor in Council may designate other ministers to serve as alternates in the absence of members of the Treasury Board. R.S.O. 1960, c. 142, s. 2 (1, 2).

Secretary

(3) The Lieutenant Governor in Council shall appoint an officer to be called the Secretary of the Treasury Board, who shall perform such functions as the Treasury Board may assign to him, and the Secretary of the Treasury Board shall rank as and have all the powers of a deputy minister of a department. 1966, c. 57, s. 1, *part*; 1968, c. 41, s. 2.

Officers and  
employees  
R.S.O. 1970,  
c. 386

(4) Such other officers and employees as are necessary for the proper conduct of the business of the Treasury Board shall be appointed under *The Public Service Act*. 1966, c. 57, s. 1, *part*.

Rules of  
procedure,  
minutes

(5) The Treasury Board may determine its rules and methods of procedure and shall keep a minute book in which shall be recorded the proceedings of the Board. R.S.O. 1960, c. 142, s. 2 (4).

Duties of  
Treasury  
Board

**3.**—(1) The Treasury Board shall act as a committee of the Executive Council on all matters relating to finance, revenues, estimates, expenditures, financial commitments, terms of employment of Crown employees, organization and staff establishments and on any other matter concerning general administrative policy in the public service that is referred to the Board by the Executive Council or on which the Board considers it desirable to report to the Executive Council.

(2) The Treasury Board shall nominate and recommend to the Lieutenant Governor in Council the Crown employees who shall constitute the official side of the Joint Council appointed under section 27 of *The Public Service Act*, and such appointees shall be responsible to the Treasury Board. 1968, c. 41, s. 3.

Nomination  
of Crown  
employees

R.S.O. 1970,  
c. 386

**4.**—(1) The Treasury Board may require from any public officer or any agent of the Crown any account, return, statement, document, report or information that the Board considers necessary for the performance of its duties. R.S.O. 1960, c. 142, s. 4.

Treasury  
Board may  
require  
production  
of  
documents

(2) The Treasury Board may issue such administrative directives as it considers necessary in the performance of its duties. 1965, c. 40, s. 1.

Administra-  
tive  
directives

**5.** Subject to the approval of the Lieutenant Governor in Council, the Treasury Board may make regulations,

Regulations

- (a) respecting the collection, management and administration of, and accounting for, public money;
- (b) respecting the retention and disposal of records;
- (c) prescribing salaries of Crown employees that have been determined through negotiation under section 27 or 28 of *The Public Service Act*;
- (d) for any purpose necessary for the efficient administration of the public service. R.S.O. 1960, c. 142, s. 5; 1965, c. 40, s. 2; 1968, c. 41, s. 4.

#### DEPARTMENT OF TREASURY AND ECONOMICS

**6.** The department of the public service known as the Department of Treasury and Economics is continued, and shall be presided over by the Treasurer. 1968, c. 41, s. 5, *amended*.

Department  
of Treasury  
and  
Economics

**7.**—(1) The Treasurer shall direct and control the Department of Treasury and Economics, recommend to the Executive Council financial, economic, accounting and taxation policy, advise on federal-provincial affairs, manage the Consolidated Revenue Fund and all public money and supervise, direct and control all financial, economic, statistical and accounting functions not by law or by the Lieutenant Governor in Council otherwise assigned.

Duties of  
Treasurer

(2) The Treasurer is responsible for the administration of this Act and the Acts that are assigned to him by the Legislature or by the Lieutenant Governor in Council.

Acts admin-  
istered by  
Treasurer

(3) Any power or duty conferred on the Treasurer by this or any other Act may be delegated by him to the Deputy Treasurer or to any officer of the Department of Treasury and Economics who may act for him in his place and stead, and, when the Deputy

Delegation  
of powers  
and duties  
of Treasurer



Treasurer or such other officer acts in the place and stead of the Treasurer, it shall be presumed conclusively that he acted in accordance with such a delegation. 1968, c. 41, s. 6.

Seal

**8.**—(1) The Lieutenant Governor in Council may authorize a seal for the Treasurer and prescribe its use on documents.

Mechanical reproduction of seal

(2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction, and when so reproduced has the same force and effect as if manually affixed. R.S.O. 1960, c. 142, s. 8.

Deputy Treasurer and Deputy Minister of Economics

**9.**—(1) The Lieutenant Governor in Council shall appoint a Deputy Treasurer and Deputy Minister of Economics to be the deputy head of the Department of Treasury and Economics.

Duties of Deputy Treasurer

(2) Under the direction of the Treasurer, the Deputy Treasurer shall perform such duties as the Treasurer may assign or delegate to him. 1968, c. 41, s. 7.

Oath of secrecy

**10.** Every person who is to examine the accounts or inquire into the affairs of any department pursuant to this Act shall be required to comply with any security requirements applicable to, and to take any oath of secrecy required to be taken by, persons employed in that department. R.S.O. 1960, c. 142, s. 17.

## PART II

### PUBLIC MONEY

Public money to be deposited

**11.**—(1) Subject to this Part, all public money shall be deposited to the credit of the Treasurer.

Establishment of bank accounts

(2) The Treasurer shall establish in the name of the Treasurer of Ontario or in the name of any agency of the Crown approved by the Lieutenant Governor in Council accounts with such banks as he designates for the deposit of public money.

Duty of person collecting public money

(3) Every person who collects or receives public money shall pay all money coming into his hands to the credit of the Treasurer of Ontario through such officers, banks or persons and in such manner as the Treasurer may direct and shall keep a record of receipts and deposits thereof in such form and manner as the Treasurer may direct. 1968, c. 41, s. 9.

Treasurer may purchase securities

**12.**—(1) The Treasurer, when he considers it advisable for the sound and efficient management of public money or of the public debt or of any sinking fund, may from time to time and on such terms and conditions as he considers advisable, purchase, acquire and hold,

(a) securities issued by or guaranteed as to principal and interest by Ontario, any other province of Canada, Canada or the United Kingdom;

- (b) securities issued by the United States of America;
- (c) securities issued or guaranteed by the International Bank for Reconstruction and Development payable in Canadian or United States currency; and
- (d) deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued or endorsed by any chartered bank to which the *Bank Act* (Canada) applies,

1966-67,  
c. 87 (Can.)

and pay therefor out of the Consolidated Revenue Fund. 1968, c. 41, s. 10.

(2) The Treasurer may sell any securities purchased, acquired or held pursuant to this section and the proceeds of such sales shall be deposited to the credit of the Consolidated Revenue Fund. R.S.O. 1960, c. 142, s. 20 (2).

Sale of  
such  
securities

**13.**—(1) Where any security, obligation, debenture or covenant, or any interest in real or personal estate, effects, or property is given, or transferred to, made with, or vested in the Treasurer by virtue of his office, the security, obligation, debenture or covenant, and any right of action in respect thereto, and all the estate, right and interest of the Treasurer in respect thereof, upon the death, resignation or removal from office of the Treasurer, vests, subject to the same trusts as they were respectively subject to, in the succeeding Treasurer, and may be proceeded on by action or in any other manner, or may be assigned, transferred or discharged, in the name of the succeeding Treasurer.

Vesting of  
securities,  
etc., in  
Treasurer  
and his  
successors

(2) A security, obligation, debenture, covenant or an interest in real or personal estate, effects and property may be proceeded on in the name of, or assigned, transferred or discharged by, any member of the Executive Council acting under *The Executive Council Act*.

Realizing on  
securities

R.S.O. 1970,  
c. 153

(3) This section applies to every security, obligation, debenture or covenant, and every interest in real or personal estate, effects or property given or transferred to, made with, or vested in any former Treasurer, by virtue or on account of his office, and transfers all the interest, rights and estate of the former Treasurer to the Treasurer for the time being to be vested in him by virtue of his office. R.S.O. 1960, c. 142, s. 21.

Application  
of section

**14.**—(1) Where a person has an obligation or debt due to the Crown or the Crown has a claim against a person, the Treasurer may, subject to any other Act affecting such obligation, debt or claim, negotiate and accept a settlement in payment and satisfaction of such obligation, debt or claim, or may determine that any such obligation, debt or claim is uncollectable.

Settlement  
of or deter-  
mination  
of uncollec-  
tability of  
debts

Deletion  
of losses

(2) The Lieutenant Governor in Council, on the recommendation of the Treasurer, may, if he considers it in the public interest, delete from the accounts any loss incurred in any settlement or determination made under subsection 1. R.S.O. 1960, c. 142, s. 22 (1, 2).

Losses  
charged to  
surplus  
account

(3) The losses deleted from the accounts during any fiscal year shall be reported in the Public Accounts for that year. R.S.O. 1960, c. 142, s. 22 (3); 1968, c. 41, s. 11.

Treasurer  
authorized  
to accept  
certain  
gifts and  
bequests

**15.**—(1) The Treasurer may accept from any person gifts or bequests for the permanent endowment of any charitable or educational object in Ontario, and may invest them in such securities as the Lieutenant Governor in Council may direct.

Interest

(2) The Treasurer shall pay interest upon such gifts or bequests to such persons, at such rate, at such times and computed in such manner as the Lieutenant Governor in Council from time to time may determine, and such interest is a charge upon and payable out of the Consolidated Revenue Fund. R.S.O. 1960, c. 142, s. 23.

Money re-  
ceived for  
special  
purpose

**16.**—(1) Money received by or on behalf of the Crown for a special purpose and paid into the Consolidated Revenue Fund may, subject to any Act applicable thereto, be paid out of the Consolidated Revenue Fund for that purpose.

Interest

(2) The Treasurer may pay interest upon any money to which subsection 1 applies, at such rate, at such times and computed in such manner as the Lieutenant Governor in Council may from time to time determine, and such interest is a charge upon and payable out of the Consolidated Revenue Fund. R.S.O. 1960, c. 142, s. 24.

Recovery  
of balance  
of public  
money

**17.** Every person, on the termination of his charge of an account, or, in the case of his death, his representatives, shall forthwith pay over any balance of public money then due to the Crown in respect of such charge to the public officer authorized to receive it. R.S.O. 1960, c. 142, s. 25 (1).

Refunds

**18.** Where a refund is authorized to be made to a person, such refund shall be paid out of the Consolidated Revenue Fund and charged to the appropriate account. R.S.O. 1960, c. 142, s. 26.

### PART III

#### DISBURSEMENT OF PUBLIC MONEY

Form of  
payments  
out of Fund

**19.**—(1) Every payment out of the Consolidated Revenue Fund shall be made by cheque which shall be signed by the Treasurer and by the Deputy Treasurer or such other officer of

the Department of Treasury and Economics who is for the time being authorized by the Treasurer to sign cheques. 1968, c. 41, s. 14 (1).

(2) The Treasurer may authorize the use of facsimile signatures on cheques to be affixed thereto by the use of a rubber stamp or by printing, lithographing, engraving or by other mechanical means. R.S.O. 1960, c. 142, s. 27 (2). Signature

(3) The Treasurer, with the approval of the Provincial Auditor, may authorize the destruction from time to time of paid and cancelled cheques. R.S.O. 1960, c. 142, s. 27 (4). Destruction

**20.** Where a guarantee has been given under the authority of the Legislature by or on behalf of the Crown for the payment of a debt or obligation, any amount required to be paid by the terms of the guarantee may, subject to the Act authorizing the guarantee, be paid out of the Consolidated Revenue Fund. R.S.O. 1960, c. 142, s. 28. Payment of guarantee

**21.**—(1) Where an accident happens to any public work or building when the Legislature is not in session and an expenditure for the repair or renewal thereof is urgently required, or where any other matter arises when the Legislature is not in session in respect of which an expenditure not foreseen or provided for by the Legislature is urgently required for the public good, the Treasury Board shall estimate the amount to be required for such expenditure, and the Lieutenant Governor in Council, upon the report of the Treasurer that there is no appropriation for the expenditure and upon the report of the Treasury Board stating its estimate and upon the recommendation of the minister of the department concerned that the expenditure is urgently required, may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the payment of the amount estimated to be required for such expenditure. Special warrants

(2) A warrant issued under this section shall be deemed to be an appropriation for the fiscal year in which it is issued. R.S.O. 1960, c. 142, s. 29. Warrant an appropriation

**22.** Where an appropriation is exhausted or a sufficient amount was not provided and the public interest or the urgent requirements of the public service necessitate further payments, the Treasury Board, upon the report of the minister of the department concerned as to the necessity for further payments and stating the reason why the appropriation is insufficient and the amount estimated to be required, may make an order authorizing payments to be made against such amount as it considers proper. R.S.O. 1960, c. 142, s. 30; 1961-62, c. 43, s. 3. Treasury Board orders



How public moneys to be paid in certain circumstances

**23.** If any public money is appropriated by an Act for any purpose or is directed by the judgment of a court or the award of arbitrators or other lawful authority to be paid by the Lieutenant Governor and no other provision is made respecting it, such money is payable under warrant of the Lieutenant Governor, directed to the Treasurer, out of the Consolidated Revenue Fund, and all persons entrusted with the expenditure of any such money or a part thereof shall account for it in such manner and form, with such vouchers, at such periods and to such officer as the Treasurer may direct. R.S.O. 1960, c. 142, s. 31.

Allowances for travelling and living expenses

**24.** The Lieutenant Governor in Council may make regulations fixing the scale of allowances for the travelling and living expenses to be allowed to any person employed in or in connection with any part of the public service. R.S.O. 1960, c. 142, s. 32.

Accountable advances

**25.**—(1) On the application of a minister, the Treasurer may authorize an accountable advance out of the Consolidated Revenue Fund for the purpose of meeting disbursements for travelling expenses or other contingencies or of making payments on account of expenses incurred or to be incurred. R.S.O. 1960, c. 142, s. 33 (1); 1968, c. 41, s. 15 (1).

Idem

(2) If, at the termination of the fiscal year in which an advance was made no accounting or repayment of the advance has been received, such advance shall be repaid or accounted for within thirty days thereafter. R.S.O. 1960, c. 142, s. 33 (2).

Authority for payments of accounts for printing, stationery, etc.

**26.** The Treasurer may pay out of the Consolidated Revenue Fund accounts for legislative and departmental printing, paper and stationery and other supplies delivered to the Queen's Printer and Publisher, but the amount of such deliveries remaining on hand and in the course of distribution shall not exceed in any fiscal year the sum of \$1,000,000. R.S.O. 1960, c. 142, s. 34; 1965, c. 40, s. 4, *amended*.

Expenditure refunds

**27.** An amount received as a refund or repayment of an expenditure or advance and deposited to the credit of the Treasurer shall be included in the unexpended balance of the appropriation against which it was charged. R.S.O. 1960, c. 142, s. 35.

## PART IV

### PUBLIC DEBT

Interpretation

**28.** In this Part, "securities" means securities of Ontario, and includes Ontario Government stock, bonds, debentures, interest bearing and non-interest bearing treasury bills, notes and any other security representing part of the public debt of Ontario. R.S.O. 1960, c. 142, s. 36.

**29.** No money shall be raised by way of loan by the Crown except under this or any other Act of the Legislature. R.S.O. 1960, c. 142, s. 37. Loans to be authorized

**30.** All money raised by way of loan and the interest thereon and the principal amount of and interest on all securities issued are a charge on and are payable out of the Consolidated Revenue Fund. R.S.O. 1960, c. 142, s. 38. Money raised a charge on Consolidated Revenue Fund

**31.** Where by this or any other Act authority is given to the Lieutenant Governor in Council to raise a sum of money by way of loan, unless there is a provision to the contrary in the Act by which the authority is given, such sum may, in the discretion of the Lieutenant Governor in Council, be raised in one of the following ways, or partly in one and partly in another or others thereof: Raising of loans, etc.

1. By the issue and sale of any class or classes of securities which may be in such form or forms, may be for such separate sums, may bear interest at such rate or rates, may be payable as to principal and interest at such time or times and at such place or places as the Lieutenant Governor in Council considers expedient.
2. By the issue and sale of interest bearing treasury bills and non-interest bearing treasury bills which may be in such form and for such separate sums and may be payable at such place or places and at such time or times, not later than twelve months after the date thereof, as the Lieutenant Governor in Council considers expedient.
3. By temporary loan or loans, and in any such case, unless the Lieutenant Governor in Council otherwise directs, the sums authorized to be raised by way of temporary loan, or any part thereof, may be raised by way of cheques creating overdrafts having such signatures affixed thereto as provided by section 19 as would make such cheques, if not creating overdrafts, binding on Ontario, and all moneys paid in honouring any such cheque by any bank upon which such cheque is drawn shall conclusively be deemed to have been raised by the Lieutenant Governor in Council in pursuance of the authorizing Act. R.S.O. 1960, c. 142, s. 39; 1968, c. 41, s. 16.

**32.—(1)** In addition to all money authorized to be raised by way of loan by any other Act, the Lieutenant Governor in Council may raise money by way of loan in such manner and at such times as is considered expedient by the issue and sale of any class or classes of securities in such amounts as will realize the net sum required for any or all of the following purposes: Raising of loans for refunding purposes

1. Payment, refunding or renewal from time to time of the whole or any part of any loan raised or securities issued under this or any other Act, or the reimbursement of the Consolidated Revenue Fund for expenditures made therefrom for the payment of such security within a period of one year after maturity date of such security, notwithstanding that the issue of securities for such purpose may have the effect of increasing the amount of the public debt or of extending the term of years, if any, fixed by the Act authorizing the raising of the loan or the issue of the securities being paid, refunded or renewed.
2. Payment of the whole or any part of any loan or of any liability or of any bonds, debentures or other obligations, payment whereof is guaranteed or assumed by Ontario. 1968, c. 41, s. 17.

Effect of  
recital in  
order

(2) A recital or declaration in the order of the Lieutenant Governor in Council authorizing the issue and sale of securities to the effect that the amount of the securities so authorized is necessary to realize the net sum required to be raised by way of loan is conclusive evidence of that fact. R.S.O. 1960, c. 142, s. 40 (2).

Securities  
may be  
subject  
to call

**33.** Any securities issued under the authority of this or any other Act heretofore or hereafter passed may be made redeemable or payable in advance of maturity upon such terms and conditions, at such time or times, and at such price or prices as the Lieutenant Governor in Council may provide at the time of the issue thereof. 1968, c. 41, s. 18.

Contracts  
and agree-  
ments for  
the raising  
of loans

**34.** The Lieutenant Governor in Council may authorize the Treasurer or any officer of the Department of Treasury and Economics to enter into such contracts and agreements relating to the raising of loans or the issue and sale of securities as the Lieutenant Governor in Council may approve, but where the Lieutenant Governor in Council authorizes the raising of a loan by the issue and sale of interest bearing treasury bills or of non-interest bearing treasury bills, he may authorize the Treasurer to offer any such treasury bills for sale on a competitive or other basis and upon such terms and conditions, including the date of issue and the date of maturity thereof, as the Treasurer considers expedient and to sell any or all of such treasury bills in such principal amount or amounts and for such price or prices as the Treasurer may accept. 1968, c. 41, s. 19.

Securities  
payable in  
currency

**35.** Securities issued under the authority of this Act may be made payable in the currency or currencies of any country or countries. R.S.O. 1960, c. 142, s. 43.

**36.** Every Act heretofore or hereafter passed that authorizes the borrowing or raising by way of loan of a specific or maximum number of dollars or the issue of securities for a specific or maximum number of dollars in principal amount shall be deemed to authorize,

Loans in  
foreign  
currencies  
authorized

- (a) the borrowing or raising by way of loan, in whole or in part, of the same number of dollars of the United States of America or the issue of securities, in whole or in part, for the same number of dollars of the United States of America in principal amount, as the case may be; and
- (b) the borrowing or raising by way of loan, in whole or in part, of an equivalent amount in the currency of any country other than Canada or the United States of America, or the issue of securities, in whole or in part, for an equivalent principal amount in the currency of any country other than Canada or the United States of America, as the case may be, calculated in each case in accordance with the nominal rate of exchange between the Canadian dollar and the currency concerned as quoted by any chartered bank in Canada as of any time on the business day next preceding the date on which the Lieutenant Governor in Council authorizes the raising of the loan or the issue of the securities. R.S.O. 1960, c. 142, s. 44.

**37.** The Lieutenant Governor in Council may direct that securities, the money invested therein and the interest thereon shall be free from all taxes, succession duties, charges and impositions now or hereafter imposed by Ontario and by any taxing authority thereof or therein. R.S.O. 1960, c. 142, s. 45.

Exemption  
from  
taxation

**38.** The Lieutenant Governor in Council may change the form of any part of the debt of Ontario by substituting one security for another, provided that neither the capital of the debt nor the annual charge for interest is thereby increased, except where a security bearing a lower rate of interest is substituted for one bearing a higher rate of interest, in which case only the amount of the capital may be increased by an amount not exceeding the difference between the then present value of the respective securities, but such substitution shall not be made unless the consent of the holder of the security for which another is substituted is obtained, or such security is previously purchased or redeemed by or on account of Ontario, and such substitution may be made by the sale of a security of one class and the purchase of that for which it is desired to substitute it. R.S.O. 1960, c. 142, s. 46.

Power to  
change form  
of debt

**39.** The Lieutenant Governor in Council may provide for the manner of executing securities and the coupons, if any, attached

Execution  
of  
securities



thereto, and may provide that any signature or signatures upon the securities and the coupons attached thereto may be engraved, lithographed, printed or otherwise mechanically reproduced. 1968, c. 41, s. 20.

Contents  
and con-  
ditions of  
securities

**40.** The Lieutenant Governor in Council may provide that any securities to be issued shall contain or be subject to such conditions or provisions, including conditions or provisions with respect to the registration and transfer thereof and with respect to the exchange of securities of one form or denomination for securities of a different form or denomination of equivalent aggregate principal amount and bearing the same rate of interest, as he considers expedient. R.S.O. 1960, c. 142, s. 48.

Registrars  
and fiscal  
agents

**41.**—(1) The Lieutenant Governor in Council may,

- (a) appoint one or more registrars to perform such services in respect of the registration of securities as he prescribes;
- (b) appoint one or more fiscal agents to perform such services in respect of loans as he prescribes;
- (c) prescribe the duties of registrars and fiscal agents;
- (d) fix the remuneration or compensation of any such registrar or fiscal agent.

Accounting  
by fiscal  
agents and  
registrars

(2) Every registrar and fiscal agent shall as often as required by the Treasurer give to the Treasurer an accounting, in such form and containing such information as the Treasurer may prescribe, of all his transactions as registrar or fiscal agent. R.S.O. 1960, c. 142, s. 49.

Officers not  
bound to  
see to trust

**42.** No officer or person employed in the inscription, registration, transfer, management or redemption of any securities, or in the payment of any interest thereon, is bound to see to the execution of any trust, expressed or implied, to which such securities are subject, or is liable in any way to any person for anything so done by him. R.S.O. 1960, c. 142, s. 50.

Payment  
of lost  
securities

**43.** In the event of the loss of any securities or interest coupons thereon by a holder thereof, the Treasurer may pay the amount thereof out of the Consolidated Revenue Fund and may take a bond in such amount and in such form as he considers advisable indemnifying Ontario against loss in respect of such payment. R.S.O. 1960, c. 142, s. 51.

Sinking  
funds

**44.** The Lieutenant Governor in Council may provide for the creation and management of a special sinking fund with respect to any issue of securities or of a general sinking fund with respect to such securities as have been or are hereafter issued without provision for a sinking fund with respect to them. R.S.O. 1960, c. 142, s. 52.

**45.** All money required to provide a sinking fund or otherwise required to secure repayment of securities, the remuneration and compensation of registrars and fiscal agents and all costs, expenses and charges incurred in the negotiation or raising of loans or in the issue, redemption, servicing, payment and management of any loan and any securities issued in respect thereof, may be paid out of the Consolidated Revenue Fund. R.S.O. 1960, c. 142, s. 53.

Payment of  
loan ex-  
penses out of  
Consolidated  
Revenue  
Fund

**46.** The Treasurer may cancel securities that come into his hands through purchase for sinking fund or otherwise, and upon cancellation such securities cease to be a charge upon the Consolidated Revenue Fund. R.S.O. 1960, c. 142, s. 54.

Power to  
cancel  
securities  
acquired on  
sinking fund  
account

**47.**—(1) All securities issued for raising money by way of loan shall contain in the body of each security a statement of the legislative authority under which the loan is authorized, and no security issued after the 1st day of July, 1922, is valid unless such statement of the legislative authority for the particular loan is contained in the body of such security.

Securities  
to state  
authority

(2) Every advertisement for the sale of such securities shall contain a statement of the legislative authority under which the loan is authorized. R.S.O. 1960, c. 142, s. 55.

Advertise-  
ment to  
state  
authority

**48.** Nothing in this Act impairs or prejudicially affects the rights of the holder of any securities issued before this Act comes into force. R.S.O. 1960, c. 142, s. 56.

Securities  
heretofore  
issued

**49.** The Lieutenant Governor in Council may make such regulations as he considers necessary,

Regulations

- (a) for the management of the public debt;
- (b) for the inscription of any securities;
- (c) for the registration, transfer, exchange, redemption, cancellation and destruction of securities. R.S.O. 1960, c. 142, s. 57.

## PART V

### CIVIL LIABILITY

**50.**—(1) Where the Treasurer has reason to believe that a person,

Notice to  
person  
failing to  
pay over  
public  
money

- (a) has received money for the Crown and has not paid it over;
- (b) has received money for which he is accountable to the Crown and has not accounted for it; or

- (c) has in his hands any public money applicable to a purpose and has not applied it to that purpose,

the Treasurer may give notice to such person, or to his personal representative in case of his death, requiring him within such time from the service of the notice as is stated therein, to pay over, account for, or so apply such money, as the case may be, and to transmit to the Treasurer proper vouchers that he has done so.

Service  
of notice

(2) The notice may be served by delivering a copy to the person to whom it is addressed or by leaving it for him at his usual place of residence.

Proceedings  
where notice  
not com-  
plied with

(3) Where a person fails to comply with the notice given under subsection 1 within the time stated therein, the Treasurer may state an account between the Crown and such person showing the amount of the money not paid over, accounted for or applied, as the case may be, and, in the discretion of the Treasurer, charging interest on the whole or any part thereof at the rate of 5 per cent per annum from such date as the Treasurer may determine, and in any proceedings for the recovery of such money a copy of the account so stated by the Treasurer, certified by him, is admissible in evidence as *prima facie* proof that the amount stated therein, together with interest, is due and payable to the Crown, without proof of the signature of the Treasurer or his official character, and without further proof thereof, and such amount and interest may be recovered as a debt due to the Crown in any court of competent jurisdiction. R.S.O. 1960, c. 142, s. 58.

Unapplied  
public  
money for  
purpose to  
be applied  
out of Con-  
solidated  
Revenue  
Fund

**51.** Where a person has received public money to be applied to a purpose and has not so applied it and a notice has been given under subsection 1 of section 50, an equal sum out of the Consolidated Revenue Fund may in the meantime be applied to the purpose to which such sum ought to have been applied. R.S.O. 1960, c. 142, s. 59.

Evidence

**52.** Where it appears,

- (a) by the books or accounts kept by or in the office of any person employed in the collection or management of the revenue;
- (b) in any accounting by such person; or
- (c) by his written acknowledgment or confession,

that such person has, by virtue of his office or employment, received money belonging to the Crown and has neglected or refused to pay it over to the proper persons at the proper times, an affidavit deposing to such facts, taken by any person having knowledge thereof, is, in any proceedings for the recovery of such money, admissible in evidence as *prima facie* proof of the facts stated therein. R.S.O. 1960, c. 142, s. 60.

**53.** Where by reason of any malfeasance, nonfeasance or misfeasance by a person employed in collecting or receiving any public money, any sum of money is lost to the Crown, such person is accountable for such sum as if he had collected and received it and it may be recovered from him as if he had collected and received it. R.S.O. 1960, c. 142, s. 61.

Liability  
for loss

**54.**—(1) In this section, “Crown” includes any agency of the Crown.

Interpre-  
tation

(2) Where in the opinion of the Treasurer a person is indebted to the Crown in right of Ontario or in right of Canada in any specific sum of money, the Treasurer may authorize the Comptroller of Accounts,

Set-off

- (a) to retain by way of deduction or set-off, out of any money that is due and payable by the Crown in right of Ontario to such person, such sum as the Treasurer sees fit in the circumstances; and
- (b) to pay such sum to such public officer as he thinks appropriate to receive it. 1965, c. 40, s. 5.

**55.** All books, papers, accounts and documents kept or used by, or received or taken into the possession of any person who is or has been employed in connection with the collection, management, disbursement or accounting of public money, by virtue of that employment, shall be deemed to be chattels belonging to the Crown, and all money and valuable securities received or taken into the possession of any such person by virtue of his employment shall be deemed to be money and valuable securities belonging to the Crown. R.S.O. 1960, c. 142, s. 63.

Books, etc.,  
property  
of the  
Crown

**56.** Nothing in this Act affects any remedy that the Crown by virtue of any other Act or law has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown and in the possession of any person or any remedy that the Crown or any person has against such person or his sureties or against any other person. R.S.O. 1960, c. 142, s. 64.

Nothing in  
this Act to  
impair other  
remedies of  
the Crown





## CHAPTER 167

## The Fines and Forfeitures Act

**1.** In this Act, "fine" includes all pecuniary fines, penalties and forfeitures. R.S.O. 1960, c. 143, s. 1. Interpretation

**2.—(1)** Where a fine has been imposed for a contravention of an Act of the Legislature or a regulation made thereunder and no other provision is made for its recovery, it is recoverable with costs by a civil action at the suit of the Crown. Recovery of fines by action

(2) Notwithstanding any general or special Act, no fine recovered for a contravention of an Act of the Legislature or a by-law or regulation made thereunder or any part of such fine shall be paid to a person acting as an informer or a prosecutor. 1968-69, c. 38, s. 1. No fines payable to informer or prosecutor

**3.** Where the amount of a fine is in the discretion of a court or judge or in case a court or judge has power to impose imprisonment in addition to or in lieu of a fine and no other mode of recovery is prescribed, it may be recovered upon indictment in the Supreme Court or court of general sessions of the peace. R.S.O. 1960, c. 143, s. 3. Recovery of fine by indictment

**4.** Every fine imposed for a contravention of any statute in force in Ontario and the proceeds of every forfeiture imposed and given to the Crown shall, where the disposal thereof is within the power of the Legislature, and except so far as other provision is made in respect thereto, be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1960, c. 143, s. 4. To whom fine, etc., to be paid

**5.—(1)** Where a fine is imposed by or under the authority of an Act of the Legislature, the court or judge having cognizance of the proceedings for the recovery thereof may at any time after the commencement thereof remit in whole or in part such fine, whether the money is in whole or in part payable to the Crown or to some person other than the Crown and whether it is recoverable by indictment, information, summary process, action or otherwise. Remission of fine by court or judge

(2) A provincial judge or justice of the peace does not have the authority mentioned in subsection 1. R.S.O. 1960, c. 143, s. 5, *amended*. Provincial judges and justices of the peace

Claimant  
of interest  
in personal  
property  
forfeited  
to Crown

**6.**—(1) Where there is a forfeiture of personal property to the Crown, any person who claims an interest in the property forfeited as owner, mortgagee, lien-holder or holder of a similar interest may, upon seven days notice to the Minister of Justice and Attorney General, apply for an order declaring his interest in the property immediately before forfeiture.

Application  
to judge

(2) An application under subsection 1 shall be made within sixty days of the date of forfeiture to a judge of the county or district court of the county or district in which forfeiture was made or in which the property was at the time of forfeiture.

Conditions  
of order

(3) On such application, where the claimant establishes to the satisfaction of the judge,

- (a) that he had a *bona fide* interest in the property forfeited to the Crown; and
- (b) that he exercised reasonable care with respect to the person given possession of the property to satisfy himself that the person was not likely to use the property contrary to any Act of this Legislature,

the judge shall make an order declaring the interest of the claimant in the property immediately before forfeiture. R.S.O. 1960, c. 143, s. 6, *amended*.

Remission  
by Lieuten-  
ant  
Governor in  
Council  
R.S.O. 1970,  
c. 240

**7.**—(1) The Lieutenant Governor in Council may at any time remit, in whole or in part, any fine mentioned in section 5 unless it was imposed by *The Legislative Assembly Act*, or by some Act respecting the election of members to the Assembly, or is recoverable in respect of any offence committed in connection with any such election.

Relief  
against  
civil conse-  
quences of  
conviction

(2) Where a fine is remitted, the Lieutenant Governor in Council may also relieve the offender from any other penalty or forfeiture consequent upon his conviction.

Remission  
of interest  
in personal  
property

(3) Upon receipt of an order made under section 6, the Lieutenant Governor in Council may remit, in whole or in part, the interest of the person in whose favour the order was made or afford such other relief as he sees fit. R.S.O. 1960, c. 143, s. 7.

Costs not  
to be  
remitted

**8.** Nothing in this Act authorizes the remitting of costs incurred up to the time of remitting the penalty or forfeiture. R.S.O. 1960, c. 143, s. 8.

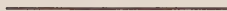
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## CHAPTER 168

### The Fire Accidents Act

**1.** Where, by a statute or municipal by-law, or by a regulation made under a statute or by-law, the owner, proprietor, lessee, occupant, manager or other person owning, occupying or having the control or management of a building is required to provide fire escapes, means of exit, stairways or other structures or any appliance for the safety of inmates or of the public in case of fire, and it is shown in an action brought against such person to recover damages for death occasioned by fire in such building that such requirements or any of them had not been complied with at the time of the fire, it shall be presumed that the non-compliance was the cause of the death. R.S.O. 1960, c. 144, s. 1.

Onus of proof of compliance with requirements as to fire escapes, etc.







CHAPTER 169

The Fire Departments Act

1. In this Act,

Interpre-  
tation

- (a) “deputy chief” means the one person who has been appointed by the council of the municipality to act in the place of the chief of the fire department in his absence or in the case of a vacancy in the office;
- (b) “fire department” means a fire department organized under *The Municipal Act* and equipped with one or more motorized fire pumpers meeting the prescribed standards; R.S.O. 1970.  
c. 284
- (c) “Fire Marshal” means the Fire Marshal of Ontario;
- (d) “full-time fire fighter” means a person regularly employed in the fire department on a full-time salaried basis and assigned exclusively to fire protection or fire prevention duties, and includes officers and technicians;
- (e) “population” means the population ascertained from the last revised assessment roll;
- (f) “prescribed standards” means the standards prescribed by the regulations;
- (g) “regulations” means the regulations made under this Act;
- (h) “volunteer fire fighter” means a person who voluntarily acts as a fire fighter for a nominal consideration or honorarium. R.S.O. 1960, c. 145, s. 1; 1962-63, c. 46,  
s. 1.

PART I

2.—(1) In every municipality having a population of not less than 10,000, the full-time fire fighters assigned to fire-fighting duties shall work according to, Hours of  
work

- (a) the two-platoon system where the full-time fire fighters are divided into two platoons, the hours of work of which shall be, two-platoon  
system
  - (i) for each platoon twenty-four consecutive hours on duty followed immediately by twenty-four consecutive hours off duty, or
  - (ii) for one platoon in day-time ten consecutive hours on duty followed immediately by fourteen consecu-

tive hours off duty and for the other platoon in night-time fourteen consecutive hours on duty followed immediately by ten consecutive hours off duty,

and the platoons shall alternate at least every two weeks from night work to day work and vice versa;

three  
platoon  
system

- (b) the three-platoon system where the full-time fire fighters are divided into three platoons, the hours of work of which shall be eight consecutive hours on duty followed immediately by sixteen consecutive hours off duty, and the platoons shall rotate in their periods of duty and time off as may be arranged for the purpose of changing shifts at least every two weeks; or

alternative  
systems

- (c) any other system of platoons or hours of work under which the maximum hours of work or hours on duty on the average in any work week are not more than forty-eight hours. R.S.O. 1960, c. 145, s. 2 (1); 1962-63, c. 46, s. 2 (1), *amended*.

Other  
personnel

- (2) Full-time fire fighters assigned to other than fire-fighting duties shall work such hours as are determined, but in no case shall such hours of work exceed the average work week of the other full-time fire fighters. R.S.O. 1960, c. 145, s. 2 (2).

Maximum  
hours

- (3) No full-time fire fighter shall be required to be on duty on the average in any work week more than forty-eight hours. 1962-63, c. 46, s. 2 (2), *amended*.

Weekly  
day off  
duty

- (4) Every full-time fire fighter shall be off duty for one full day of twenty-four hours in every calendar week, but where a two-platoon system or a three-platoon system is in operation, the twenty-four hours release at the change of platoons shall not be regarded as a day off duty for the purposes of this section.

Time off  
duty

- (5) Nothing in this Act prohibits any municipality from granting the full-time fire fighters more than one day off duty in every calendar week.

Free from  
calls

- (6) The hours off duty of full-time fire fighters shall be free from fire department duties or calls. R.S.O. 1960, c. 145, s. 2 (4-6).

Recall in  
emergency

- (7) Notwithstanding this section, where a fire, flood or other disaster occurs that requires the services of every full-time fire fighter, the chief or other officer in charge of the fire department may recall to duty any full-time fire fighter who is not on duty. 1964, c. 33, s. 1.

Act not to  
affect pay  
or holidays

- 3.** No deduction shall be made from the pay or the holidays of the full-time fire fighters by reason of this Act. R.S.O. 1960, c. 145, s. 3.

**4.—**(1) A full-time fire fighter shall not be discharged without Discharge being given at least seven days notice in writing of the proposed discharge and the reasons therefor, and may, before the expiry of the notice, require a hearing by delivering a notice in writing to that effect to the clerk of the municipality.

(2) Where a notice requiring a hearing is delivered under Hearing subsection 1, the council or a committee thereof shall hold a hearing, and the fire fighter may be represented at the hearing by counsel.

(3) Where a fire fighter requires a hearing under subsection 2, When the discharge shall not take effect before the hearing is disposed of. 1964, c. 33, s. 2. discharge effective

**5.—**(1) When requested in writing by a majority of the Bargaining full-time fire fighters, the council of the municipality shall within sixty days after receipt of the request bargain in good faith with a bargaining committee of the full-time fire fighters, and shall make every reasonable effort to come to an agreement, for the purpose of defining, determining and providing for remuneration, pensions or working conditions of the full-time fire fighters other than the chief and the deputy chief of the fire department. 1964, c. 33, s. 3.

(2) In subsection 1, “pensions” includes any pension plan or payment authorized by paragraph 64 of section 352 of *The Interpretation R.S.O. 1970, c. 284* *Municipal Act*.

(3) Where not less than 50 per cent of the full-time fire fighters Trade union belong to a trade union, any request under subsection 1 shall be made by the union.

(4) The members of the bargaining committee shall be full-time fire fighters, but, where not less than 50 per cent of the full-time fire fighters belong to a trade union, the bargaining committee may, at all meetings held with the council of the municipality or any committee thereof for the purpose of bargaining, be accompanied by, Affiliated bodies

(a) where the trade union is affiliated with a provincial body, one member of the provincial body; and

(b) where the trade union is affiliated with an international body, one member of the international body,

each of whom shall attend in an advisory capacity only.

(5) When the request involves pensions under a pension plan established or to be established under *The Municipal Act*, notice of such request shall be given to the Department of Municipal Affairs which may determine the maximum pension benefits that may be included in any agreement, decision or award with respect to such pension plan. Pension plans under R.S.O. 1970, c. 284 R.S.O. 1960, c. 145, s. 5 (2-5).



Board of  
arbitration

**6.**—(1) Where, after bargaining under section 5, the council of the municipality or the bargaining committee is satisfied that an agreement cannot be reached, it may by notice in writing to the bargaining committee or the council, as the case may be, require all matters in dispute to be referred to a board of arbitration of three members, in which case the council and the bargaining committee shall each appoint a member and the third member, who shall be the chairman, shall be appointed by the two members so appointed.

Failure to  
appoint  
member

(2) Where either party fails to appoint a member of the board of arbitration within thirty days, or having appointed a person who is unable or unwilling to act, fails to appoint another member within thirty days, the Minister of Justice and Attorney General may, upon the written request of the other party, appoint a member in lieu thereof.

Failure to  
appoint  
chairman

(3) Where the two members of the board of arbitration appointed by the parties fail, within five days of the appointment of the one last appointed, to agree upon a third member, the Minister of Justice and Attorney General may, upon notice in writing of such failure given to him by either of them or by either of the parties, appoint the third member.

Commence-  
ment and  
termination of  
arbitration  
proceedings

(4) The board of arbitration shall commence the arbitration proceedings within thirty days after it is constituted and shall deliver the decision or award within sixty days after the commencement of the arbitration proceedings. R.S.O. 1960, c. 145, s. 6 (1-4), *amended*.

Extension  
of periods

(5) Any of the periods mentioned in this section may be extended at any time by agreement of the parties. R.S.O. 1960, c. 145, s. 6 (5); 1964, c. 33, s. 4.

Decision

(6) Where upon an arbitration a majority of the members of the board of arbitration fail to agree upon any matter, the decision of the chairman upon such matter shall be deemed to be the decision of the board of arbitration.

Costs

(7) Each party shall assume its own costs of the arbitration proceedings and shall share the cost of the third arbitrator equally. R.S.O. 1960, c. 145, s. 6 (6, 7).

Agreements,  
etc., to be in  
writing and  
binding on  
the parties

**7.**—(1) Every agreement under section 5 and every decision or award under section 6 shall be in writing and is binding upon the municipality and the full-time fire fighters.

Duration of  
agreements,  
etc.

(2) Every agreement, decision or award remains in effect until the end of the year in which it comes into effect and thereafter remains in effect until replaced by a new agreement, decision or award.

Idem

(3) Notwithstanding subsection 2, the parties to an agreement may provide therein or at any time before a decision or award is

made with respect thereto that the agreement and any such decision or award shall remain in effect until the end of the year next following the year in which it comes into effect, in which case it remains in effect for such period and thereafter remains in effect until replaced by a new agreement, decision or award.

(4) Either party to collective bargaining that has resulted in an agreement, decision or award may proceed under sections 5 and 6 at any time for a new agreement, decision or award. R.S.O. 1960, c. 145, s. 7 (1-4). New agreements, etc.

(5) Where a difference arises between the parties relating to the interpretation, application or administration of an agreement made under section 5 or of a decision or award of a board of arbitration made under section 6, or where an allegation is made that the agreement or award has been violated, either of the parties may, after exhausting any grievance procedure established by the agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration, and, if the recipient of the notice and the party desiring the arbitration do not within ten days agree upon a single arbitrator, the appointment of a single arbitrator shall be made by the Minister of Justice and Attorney General upon the request of either party, and the arbitrator shall commence to hear and determine the difference or allegation within thirty days after his appointment, and shall issue a decision within a reasonable time thereafter, and such decision is final and binding upon the parties. R.S.O. 1960, c. 145, s. 7 (5); 1964, c. 33, s. 5 (1), *amended*. Single arbitrator

(6) Each party to an arbitration under subsection 5 shall share equally the cost of the arbitration proceedings and the cost of the arbitrator. Costs

(7) Any of the periods mentioned in subsection 5 may be extended at any time by agreement of the parties. 1964, c. 33, s. 5 (2). Extension of periods

(8) Where a party, municipality, trade union or full-time fire fighter has failed to comply with any of the terms of the decision of an arbitrator or arbitration board, any party, municipality, trade union or full-time fire fighter affected by the decision may, after the expiration of thirty days from the date of the delivery of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision, exclusive of the reasons therefor, in the form prescribed by the regulations, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1967, c. 28, s. 1. Enforcement of decisions

**8.** *The Arbitrations Act* does not apply to an arbitration under section 6 or 7. 1964, c. 33, s. 6. R.S.O. 1970, c. 25  
not to apply

Agreement,  
decision or  
award,  
when to  
have effect

**9.—(1)** An agreement, decision or award has effect upon the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for any expenditures incurred in the agreement, decision or award, whether such day is before or after the date of the agreement, decision or award, unless another day is named in the agreement, decision or award in lieu thereof.

Idem

(2) Where, pursuant to subsection 1, another day is named in an agreement, decision or award as the day upon which the agreement, decision or award is to have effect and such day is prior to the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for any expenditures involved in the agreement, decision or award, any of the provisions involving expenses, notwithstanding the naming of such day, have effect from the first day of such fiscal period. R.S.O. 1960, c. 145, s. 8.

Payment of  
expenditures

**10.** Where a request in writing is made under subsection 1 of section 5 during a year ending with the 31st day of December and no agreement, decision or award has resulted therefrom at the time when the council is passing its estimates in the year next following, the council shall make adequate provision for the payment of such expenditures as may be involved in the request. 1964, c. 33, s. 7.

Act to  
prevail over  
municipal  
by-laws

**11.** This Act has effect notwithstanding any by-law or regulation of a municipality relating to its fire department. R.S.O. 1960, c. 145, s. 10.

Offence

**12.** Every person who requires or requests a full-time fire fighter to be on duty in contravention of this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. R.S.O. 1960, c. 145, s. 11.

## PART II

Fire  
schools

**13.** The Fire Marshal may,

- (a) establish, maintain and operate a central fire college for the training of fire department officers;
- (b) establish and operate regional fire schools for the training of fire fighters;
- (c) provide travelling instructors for fire fighters,

and the cost thereof is payable out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 145, s. 16.

**14.** The Lieutenant Governor in Council may make regula- Regulations  
tions,

- (a) prescribing standards for fire apparatus and fire-fight-  
ing equipment;
  - (b) respecting any matter necessary or advisable to carry  
out effectively the intent and purpose of this  
Act. R.S.O. 1960, c. 145, s. 17.
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## CHAPTER 170

### The Fire Fighters Exemption Act

**1.** Whenever a company of fire fighters has been regularly enrolled in a municipality with the approval of the council of the municipality, the council shall direct the clerk to grant to each member of the company a certificate that he is enrolled in the company, which certificate exempts the person named therein, during the period of his enrolment and his continuance in actual duty, from serving as a juryman or a constable. R.S.O. 1960, c. 146, s. 1.

When fire  
fighters to be  
exempted  
from serving  
as jurors and  
constables

**2.** Upon complaint to the council of neglect of duty by a member of such fire company, the council shall examine into the complaint and, for any such cause and also in case a member of the company is convicted of a breach of any of the rules legally made for the regulation of the company, may strike off the name of any such member from the list of the company and thenceforward the certificate granted to the member has no effect in exempting him from any duty or service. R.S.O. 1960, c. 146, s. 2.

Forfeiting  
exemption  
in case of  
misconduct

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## CHAPTER 171

## The Fire Guardians Act

**1.**—(1) The council of a township may, on the petition of one-third of the ratepayers, at any meeting to be held before the 1st day of April in any year, appoint by by-law not less than two resident freeholders for each polling subdivision in the municipality to carry out the provisions of this Act.

Appoint-  
ment of fire  
guardians

(2) The persons so appointed shall be called “fire guardians” and shall hold office until the first meeting of a new council elected after their appointment and until their successors are appointed.

Tenure of  
office

(3) The council may, in the by-law, make provision for payment to the fire guardians for their services and may fix a penalty to be imposed upon fire guardians refusing or neglecting to perform their duties under this Act or the by-law. R.S.O. 1960, c. 147, s. 1.

Matters to be  
provided for

**2.** The council in any by-law passed under section 1 may provide that the period within which no person, without having first obtained permission in writing from one of the fire guardians, shall set out fire or set fire to any brush heap or other combustible material in any field, clearance or place in such township where the fire would be likely to spread shall be between the 1st day of April and the 31st day of October in any year. R.S.O. 1960, c. 147, s. 2.

Restricted  
period for  
setting  
out fires

**3.**—(1) No person shall, after the passing of such by-law, set out fire or set fire to any brush heap or other combustible material in any field, clearance or place in such township where the fire would be likely to spread between the 1st day of April and the 31st day of October in any year without having first obtained permission in writing from one of the fire guardians.

Leave to be  
obtained be-  
fore setting  
out fires

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1960, c. 147, s. 3 (1, 2), *amended*.

Offence

**4.** The permission of a fire guardian to set out fire shall not be pleaded or given in evidence in any action for negligently setting out fire, or in extenuation of so doing, or in mitigation of damages, but the absence of such permission is *prima facie* evidence of negligence. R.S.O. 1960, c. 147, s. 4.

Leave not to  
be relied on  
in actions for  
negligence



Inspection  
by fire  
guardian  
before  
granting  
leave

**5.** A fire guardian on being requested to grant permission to set out fire shall examine the place at which it is intended to set out the fire and the adjacent land and the timber, trees and other property thereon, and he shall refuse such request if, in his opinion, it would not be safe to set out the fire. R.S.O. 1960, c. 147, s. 5.

Where Act  
not to apply

**6.** This Act does not apply in any part of Ontario that has been declared a fire district under any Act. R.S.O. 1960, c. 147, s. 6.

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CHAPTER 172

The Fire Marshals Act

1. In this Act,

(a) “emergency” means an emergency as defined in *The Emergency Measures Act*;

Interpre-  
tation  
R.S.O. 1970,  
c. 145

(b) “fire department” means a fire department organized under *The Municipal Act* and equipped with one or more motorized fire pumps;

R.S.O. 1970,  
c. 284

(c) “Fire Marshal” means the Fire Marshal of Ontario;

(d) “member” means,

(i) a person regularly employed in a fire department on a full-time salary basis and assigned exclusively to fire protection or fire prevention duties, and includes officers and technicians, or

(ii) a person who voluntarily acts as a fire fighter for a nominal consideration or honorarium, or

(iii) a person who has been appointed as an auxiliary member of a fire department;

(e) “Minister” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(f) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 148, s. 1; 1961-62, c. 44, s. 1; 1962-63, c. 47, s. 1.
- 2.—(1) There shall be an officer to be known as the Fire Marshal, who shall be appointed by the Lieutenant Governor in Council.

Appointment  
of Fire  
Marshal
- (2) There shall be an officer to be known as the Deputy Fire Marshal, who shall be appointed by the Lieutenant Governor in Council and who shall act in the stead of the Fire Marshal in the absence of or during the illness or incapacity of the Fire Marshal, or in the case of a vacancy in the office, and who, when so acting, has all the power and authority of the Fire Marshal, and who shall exercise such powers and perform such duties for the prevention or investigation of fire or the protection of life and property from fire as the Lieutenant Governor in Council considers expedient or as are prescribed by the regulations.

Deputy  
Fire  
Marshal
- (3) The Lieutenant Governor in Council may appoint such number of persons as he considers necessary to be district deputy

District  
deputy fire  
marshals

fire marshals, who shall, subject to the regulations and the direction and control of the Fire Marshal, possess the powers to perform the duties of the Fire Marshal in the respective localities for which they are appointed.

Inspectors,  
appoint-  
ment

(4) The Lieutenant Governor in Council may appoint inspectors who, under the direction of the Fire Marshal, shall investigate the cause, origin and circumstances of fires occurring in Ontario and perform such other duties as are provided by this Act and the regulations, and while so acting every inspector is subject to the regulations and possesses the same powers as the Fire Marshal.

Fire  
services  
instructors

(5) The Lieutenant Governor in Council may appoint fire services instructors who, under the direction of the Fire Marshal, shall assist in the organization and training of municipal fire departments and in the development of other fire prevention programs and shall perform such other duties as are imposed by this Act or the regulations.

Officers and  
assistants

(6) The Lieutenant Governor in Council may also appoint such officers, clerks and servants as are considered necessary for carrying out and enforcing this or any other Act of Ontario relating to the prevention and investigation of fire, and the regulations.

Salaries

(7) The Fire Marshal, Deputy Fire Marshal, district deputy fire marshals, inspectors and other officers, clerks and servants shall receive such salaries or other remuneration as is fixed by the Lieutenant Governor in Council.

Salaries and  
expenses,  
how payable

(8) The salaries and other remuneration and the expenses incurred in investigations and in the exercise of the powers and duties conferred and imposed upon the officers and assistants to the Fire Marshal or other persons in the prevention or investigation of fires, and generally all expenses incurred in carrying out this Act and the regulations are payable out of the moneys that are appropriated by the Legislature for salaries and expenses under this Act.

Grant to  
fire pre-  
vention  
associations

(9) The Lieutenant Governor in Council may direct the payment out of the appropriation made by the Legislature for salaries and expenses in connection with this Act of a grant to any association or league or society organized for the purpose of fire prevention, and such a grant may be subject to such terms and conditions as the Lieutenant Governor in Council considers proper. R.S.O. 1960, c. 148, s. 2.

Powers  
and duties  
of Fire  
Marshal

**3.** Subject to the regulations and for the prevention and investigation of fire, it is the duty of the Fire Marshal and he has power,

- (a) whenever he has reason to believe that the council of a municipality has not passed a by-law under the authority of any of the sections of *The Municipal Act* or any other Act relating to the prevention of fire or protection of life and property therefrom, or that the by-law that has been passed by a municipal council is not complete or is not being enforced, to confer with members or officers of the council and to assist them as far as is expedient and practicable in preparing, improving and enforcing the by-law;
- (b) to assist members of municipal councils and municipal officers in the formation and organization of fire departments, to make recommendations with regard to equipment, operations, duties and administration of fire departments, and in the preparation of by-laws relevant thereto;
- (c) to require the chief of the fire department of a municipality or any other person who is designated as an assistant of the Fire Marshal to assist in the enforcement of the by-law;
- (d) to disseminate information and advice as to the prevention of fire by means of public meetings, newspaper articles, pamphlets, exhibitions and moving picture films and otherwise as he considers advisable;
- (e) to assist in the formation of local associations or leagues and to co-operate with any body or persons interested in developing and promoting the principles and practices of fire prevention and fire protection;
- (f) to advise and assist departments and agencies of government in fire prevention and fire protection problems;
- (g) to keep a record of every fire reported to him with such facts, statistics and circumstances as are required by the regulations;
- (h) to investigate the cause, origin and circumstances of any fire so reported to him and so far as it is possible determine whether it was the result of carelessness or design;
- (i) on the instructions of the Minister, to investigate the cause, origin and circumstances of any explosion or of any conditions that in the opinion of the Minister might have caused fire, explosion, loss of life or damage to property and so far as possible determine whether the explosion was or conditions were the result of carelessness or design;
- (j) to report to the Crown attorney of the proper county or district the facts found upon the evidence in any case in

R.S.O. 1970,  
c. 284



which he has reason to suppose that loss by fire has been occasioned by criminal negligence or design or in which he considers an offence has been committed against this Act;

- (k) whenever he considers it advisable in the public interest, to order the withholding of insurance money that may become payable by reason of any fire for a period not exceeding sixty days from the occurrence of the fire pending an investigation of its cause and circumstances;
- (l) to enter upon, examine and inspect from time to time hotels, apartment houses, factories, work shops and other places where persons reside or are employed in numbers, and direct such alterations to be made and such precautions to be taken as he considers necessary for the purpose of complying with any statute or regulation made for the better protection of life and property in such buildings. R.S.O. 1960, c. 148, s. 3, *amended*.

Appointment  
of auxiliary  
fire fighters  
R.S.O. 1970,  
c. 284

4.—(1) An authority empowered by *The Municipal Act* to appoint members of a fire department may appoint a number of auxiliary members not exceeding the number of other members of the fire department. 1961-62, c. 44, s. 2, *part*.

Resignations  
R.S.C. 1952,  
c. 184

(2) Subject to sections 34 and 35 of the *National Defence Act* (Canada), during an emergency no member of a fire department in the area in which the emergency exists shall resign without the consent of the Fire Marshal.

Appoint-  
ments re-  
muneration  
and expenses

(3) The Lieutenant Governor in Council may appoint such persons as he considers necessary, who shall function under the direction and control of the Fire Marshal and shall receive such remuneration and expenses as are fixed by the Lieutenant Governor in Council.

Agreements  
for addi-  
tional fire  
services

(4) The Minister of Justice and Attorney General may make agreements with the Crown in right of Canada or in right of any province or with any state of the United States of America or any agency of any such province or state with respect to fire services in any area in which an emergency exists.

Workmen's  
compensation  
not affected  
R.S.O. 1970,  
c. 505

(5) The relationship between a member of a fire department and the municipality by which he is employed continues for the purposes of *The Workmen's Compensation Act* as if this section had not been passed. 1961-62, c. 44, s. 2, *part*; 1962-63, c. 47, s. 2; 1965, c. 41, s. 1, *amended*.

Powers  
to hold  
inquiries  
R.S.O. 1970,  
c. 379

5. For the purpose of any inquiry or investigation that it is his duty or which he has the power to hold under this Act, the Fire Marshal has and may exercise all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 148, s. 4.

**6.** Subject to the approval in writing of the Minister, the Fire Marshal may by writing under his hand appoint any person his deputy *pro tempore* for the purpose of holding an investigation into the cause, origin and circumstances of any fire, and for that purpose, the deputy *pro tempore* has all the powers of the Fire Marshal under this Act and the regulations. R.S.O. 1960, c. 148, s. 5.

Fire  
Marshal's  
deputy  
*pro tempore*

**7.** With the approval of the Minister, the Fire Marshal may employ such legal, technical, scientific, clerical or other assistance as he considers advisable or necessary in the conduct of any investigation held under this Act or in carrying out the provisions of this Act relating to the prevention of fire or in the exercise and performance of his powers and duties. R.S.O. 1960, c. 148, s. 6.

Employment  
of expert and  
professional  
assistance

**8.—(1)** The chief of the fire department of every municipality that has a fire department and the clerk of every other municipality is by virtue of the office held by him an assistant to the Fire Marshal, and it is the duty of every assistant to the Fire Marshal to act under his direction in carrying out this Act.

Assistants  
*ex officio*,  
duties

(2) The assistants to the Fire Marshal shall report to him in writing, on forms to be supplied by him, all the fires occurring in their respective municipalities within three days after receiving information of the fire and including therein particulars of all fatalities and injuries sustained by persons in such fires.

Duty  
to report

(3) Except in the case of a municipality where the chief of the fire department is paid an annual salary of more than \$500 by the corporation of the municipality, every such assistant of the Fire Marshal shall be paid, upon the certificate of the Fire Marshal and out of the moneys that are appropriated by the Legislature for salaries and expenses in connection with this Act, the sum of \$1 for each report.

Fees of  
assistants

(4) Where in a municipality a fire prevention bureau has been established or the chief of the fire department of a municipality has designated one or more members of the fire department as a fire prevention officer or officers or the Fire Marshal has so designated any other person, every person who is a member of the bureau or who is so designated is an assistant to the Fire Marshal and has all the powers of an assistant to the Fire Marshal under this Act.

Assistants  
to the Fire  
Marshal

(5) The chief of the fire department of a municipality has the same powers and duties with respect to buildings or premises outside the territorial limits of the municipality as if the buildings or premises were situate within the municipality,

Powers of  
chief outside  
municipality

(a) if the buildings or premises are owned or used by the municipality; or

- (b) if the municipality has undertaken to provide fire protection for the buildings or premises. R.S.O. 1960, c. 148, s. 7.

Fire insurance companies, duty to report

9.—(1) Every fire insurance company authorized to transact business in Ontario shall report to the Fire Marshal, through the secretary or some other officer of the company designated by the board of directors for that purpose, all fire losses on property insured in the company, giving the date of the fire and such other particulars as are required by the regulations.

Transmitting reports

(2) The report shall be mailed to the Fire Marshal within three days after notice of loss is received by the company.

Reporting losses adjusted

(3) Every such company shall also report to the Fire Marshal the amount of the loss as adjusted on each fire after the adjustment is made.

Particulars of fire to be furnished by insured  
R.S.O. 1970, c. 224

(4) Every person sustaining or claiming to have sustained a loss by fire on property in Ontario insured wholly or partially in an insurance company not licensed or registered under *The Insurance Act* shall report to the Fire Marshal within three days after the occurrence of the fire the particulars of the insurance, the date of the fire, and such other information as is called for by the regulations, and he shall also, within ten days after completing proofs of loss against the company in which he is so insured, file with the Fire Marshal a full statement of the amount of loss claimed from every such company.

Claimant on loss to furnish information to Fire Marshal's assistant

(5) Every person sustaining a loss by fire on property in Ontario shall, upon the written or oral request of an assistant to the Fire Marshal, furnish to the assistant within seven days after receipt of the request whatever information is required to complete the form of report called for in subsection 2 of section 8.

Adjusters to furnish report on loss to Fire Marshal

(6) Every person adjusting a claim against a fire insurance company, whether the company is licensed to transact business in Ontario or not and whether the adjuster represents the company or the claimant, shall within three days after the completion of the adjustment forward a report in writing to the Fire Marshal, giving the date of the fire, the value of the property affected by the different items of the policy as established during the process of the adjustment of the claim, the insurance in each company, the amount of loss allocated to be paid by each company and such other particulars as are required by the regulations.

Fire chief to be notified of claim

(7) Every person adjusting a claim against a fire insurance company in a municipality having an organized fire department shall, where the fire department has not been summoned to or attended at the fire giving rise to the claim, by notice in writing, advise the chief of the fire department of the occurrence of the fire. R.S.O. 1960, c. 148, s. 8.

**10.** Nothing in this Act renders it obligatory for the Fire Marshal to perform in a local municipality such of the duties prescribed by this Act as are provided for by by-laws of the local municipality. R.S.O. 1960, c. 148, s. 9.

*Saving as to duties provided for by municipal by-law*

**11.**—(1) Every person, syndicate, reciprocal exchange or corporation transacting business as an insurer for fire insurance within the meaning of *The Insurance Act* shall, in addition to the taxes and fees now required by law to be paid, pay to the Treasurer of Ontario on or before the 15th day of March in each year such sum as is determined by the Lieutenant Governor in Council, not exceeding 1 per cent, calculated upon the gross premiums, fixed payments and assessments, other than those in respect of reinsurance ceded to such insurer by other insurers, received during the preceding year in respect of fire insurance business transacted in Ontario, excluding,

*Fund for expenses of Fire Marshal R.S.O. 1970, c. 224*

- (a) premiums returned;
- (b) the cash value of dividends paid or credited to policyholders by mutual insurance companies and reciprocal exchanges,

as shown by the annual statement furnished to the Superintendent of Insurance under *The Insurance Act*. 1966, c. 59, s. 1 (1).

(2) The total of such amounts constitutes a special fund for the maintenance of the office of the Fire Marshal and the expense incident thereto, but any part of the fund remaining unexpended at the end of any year and not required for maintenance shall be carried forward to the next fiscal year and the next assessment upon the fire insurance companies correspondingly reduced.

*Application of fund*

(3) The Treasurer of Ontario may make a preliminary assessment of the sum as provided in subsection 1 and such assessment shall be made upon the basis of the premiums, fixed payments and assessments received in respect of business transacted in Ontario during the last complete year for which annual statements have been filed in accordance with *The Corporations Tax Act* and *The Insurance Act*, and the amount of the assessment is subject to subsection 2.

*Preliminary assessment for expenses*

*R.S.O. 1970, cc. 91, 224*

(4) Every person who contravenes any of the provisions of this section is guilty of an offence against this Act and on summary conviction is liable to the fine prescribed by section 16. R.S.O. 1960, c. 148, s. 10 (3-5).

*Offence*

**12.** The Fire Marshal shall keep such registers and books of account as are prescribed by the Lieutenant Governor in Council. R.S.O. 1960, c. 148, s. 11.

*Books*

**13.** The Fire Marshal, Deputy Fire Marshal or a district deputy fire marshal, inspector or municipal fire chief has power,

*Examination and closing of premises*



- (a) to enter and examine any premises on which a fire has occurred or on which he has reason to believe there may be a substance or device likely to cause a fire;
- (b) to close such a premises and to prevent entry thereon by any other person for such period as is required to complete the examination of the premises; and
- (c) to remove from such a premises and to retain and examine any article or material that in his opinion may be of assistance in connection with any matter under investigation. R.S.O. 1960, c. 148, s. 12.

Power to  
obtain  
evidence

**14.** The Fire Marshal, the Deputy Fire Marshal, district deputy fire marshals and inspectors have the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. R.S.O. 1960, c. 148, s. 13.

Duty of  
witnesses  
to give  
evidence

**15.** Every person upon being served with a summons under the hand of the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal or inspector to attend for the purposes of giving evidence shall attend in pursuance of the summons, and is entitled to be paid such fees and expenses as are prescribed by the regulations. R.S.O. 1960, c. 148, s. 14.

Offences:

obstructing

contraven-  
ing Act

failure  
to give  
evidence

disobedience  
to orders  
of Fire  
Marshal

**16.** Every person who,

- (a) hinders or disturbs the Fire Marshal or any officer appointed under this Act in the execution of his duties;
- (b) contravenes any of the provisions of this Act or the regulations;
- (c) refuses or neglects to attend and be sworn and give evidence before the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal or inspector; or
- (d) refuses or neglects to obey or carry out the instructions or directions of the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal or inspector given under the authority of this Act,

is guilty of an offence and, where a penalty for such offence is not elsewhere in this Act provided for, on summary conviction, is liable to a fine of not more than \$20, but the imposition of any such fine or the payment thereof does not relieve a person convicted from fulfilling any obligation for the neglect of which the penalty was imposed. R.S.O. 1960, c. 148, s. 15.

Duty of  
Crown  
attorney to  
prosecute

**17.—(1)** It is the duty of the Crown attorney of every county or district, upon receiving the report of the Fire Marshal or upon receiving notice of an offence having been committed against any of the provisions of this Act or the regulations, to institute and

conduct a prosecution of any person who appears to have been guilty of an offence against the *Criminal Code* (Canada) or against this Act or the regulations. 1953-54, c. 51 (Can.)

(2) Upon the request of the Fire Marshal, it is the duty of the Crown attorney of the county or district to attend any investigation held under this Act and to examine the witnesses at the investigation and assist the Fire Marshal in the conduct of the investigation. Crown attorney to attend at investigation

(3) If the investigation is held in a place other than the county or district town, the Crown attorney is entitled to his actual disbursements for travelling and other expenses. R.S.O. 1960, c. 148, s. 16. Travelling expenses, etc., when allowed

**18.** The fees and expenses as certified by the Fire Marshal to be payable to the Crown attorney or to witnesses or for assistance given or services rendered to the Fire Marshal under this Act are payable out of the moneys that are appropriated by the Legislature for salaries and expenses in connection with this Act. R.S.O. 1960, c. 148, s. 18. Payment of fees and expenses out of appropriation

**19.—(1)** Subject to the regulations, the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal, an inspector or an assistant to the Fire Marshal may, upon the complaint of a person interested, or when he considers it necessary so to do, without such complaint, inspect all buildings and premises within his jurisdiction, and for such purpose may at all reasonable hours enter into and upon the buildings and premises for the purpose of examination, taking with him, if necessary, a constable or other police officer or such other assistants as he considers proper. Inspection of buildings and premises

(2) If, upon such inspection, it is found that a building or other structure is for want of proper repair or by reason of age and dilapidated condition or any other cause especially liable to fire, or is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein or that exits from the building or buildings are inadequate or improperly used, or that there are in or upon the buildings or premises combustible or explosive materials or conditions dangerous to the safety of the buildings or premises or to adjoining property, the officer making the inspection may order, Orders on inspection

- (a) the removal of the buildings or the making of structural repairs or alterations therein;
- (b) the removal of combustible or explosive material, or the removal of anything that may constitute a fire menace;
- (c) the installation of safeguards by way of fire extinguishers, fire alarms and other devices and equipment and also such avenues of egress, fire escapes and exit doors as

are considered necessary to afford ample exit facilities in the event of fire or an alarm of fire.

Electrical  
installations

(3) If, upon such inspection, it is found that a building or other structure is by reason of the inadequacy or want of repair of the electrical installations and wiring therein especially liable to fire, the officer making the inspection may order a reinspection by The Hydro-Electric Power Commission of Ontario of such electrical installations and wiring and that the cost of such reinspection be paid by the owner or occupant of the building or other structure.

Removal of  
process from  
buildings

(4) The Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal, an inspector or an assistant to the Fire Marshal may order the removal from any building not being of fire-resistive construction or being within fifty feet of a hospital, school, church, theatre or any other place of public assembly or a hotel, apartment house or multiple occupancy dwelling, of a process of manufacture or other occupancy that because of the danger of fire or explosion is especially hazardous to life or property or may order that any such premises shall not be used for any such process or occupancy. R.S.O. 1960, c. 148, s. 19 (1-4).

Appeal to  
Fire Marshal

(5) If the occupant or owner of any such building or premises deems himself aggrieved by an order made by an officer other than the Fire Marshal under this section, then in case the order is made under clause *a* of subsection 2 or subsection 4, the person aggrieved may appeal within ten days from the making of the order to the Fire Marshal, who shall examine the order and affirm, modify or revoke it and prepare written reasons for his decision and cause a copy of his decision and the reasons therefor to be served upon the party appealing. R.S.O. 1960, c. 148, s. 19 (5); 1960-61, c. 29, s. 1 (1).

Appeal from  
Fire Marshal  
to county  
judge

(6) If the party appealing is dissatisfied with the decision of the Fire Marshal, he may, within five days after the service of the decision, apply by way of originating notice according to the practice of the court, to the judge of the county or district court of the county or district in which the property is situate, for an order modifying or revoking the order or extending the time for compliance therewith, and the judge, upon such application, may affirm, modify or revoke the order and his decision is final.

Failure to  
prosecute  
appeal

(7) If the appeal to the county or district judge is not prosecuted by the appellant within sixty days from the filing of the originating notice, the county or district judge may dismiss the appeal at the request of the Fire Marshal. R.S.O. 1960, c. 148, s. 19 (6, 7).

When appeal  
to Fire  
Marshal is  
final

(8) In the case of an order made under clause *b* or *c* of subsection 2 or under subsection 3 by an officer other than the Fire Marshal, the occupant or owner has the like right of appeal to

the Fire Marshal as in the case of an order made under clause *a* of subsection 2, and the Fire Marshal shall prepare written reasons for his decision and cause a copy of his decision and the reasons therefor to be served upon the person appealing, and the decision of the Fire Marshal upon the appeal is final and is not subject to appeal. R.S.O. 1960, c. 148, s. 19 (8); 1960-61, c. 29, s. 1 (2).

(9) Every person who fails to obey an order made under clause *a* of subsection 2 or under subsection 4 after the time allowed for appeal therefrom has elapsed is guilty of an offence and is liable to a fine of not less than \$10 in all and not more than \$100 for every day during which such default continues, and every person who fails to obey an order made under clause *b* or *c* of subsection 2 or under subsection 3 is guilty of an offence and is liable to a fine of not less than \$10 in all and not more than \$20 for each day which such default continues. Offences

(10) Every fine under subsection 9 is recoverable before a provincial judge or two or more justices of the peace under *The Summary Convictions Act*, but the imposition of any such fine or the payment thereof does not relieve a person convicted from fulfilling any obligation for the neglect of which the penalty was imposed. Manner of  
collecting  
R.S.O. 1970,  
c. 450

(11) If the obligation for the neglect of which the fine was imposed on a person is not fulfilled within thirty days after the conviction, the provincial judge or justices, on the application of the Fire Marshal, may order the closing of any premises where the danger of fire or explosion is especially hazardous to life or property until such time as the obligation for which the fine was imposed is fulfilled. Closing of  
premises

(12) Where the person does not remedy the conditions for which a conviction was made within thirty days after conviction, the provincial judge or justices may issue an order authorizing the Fire Marshal to remove the building or combustible or explosive material or anything that may constitute a fire menace and the expenses so incurred shall be paid as in subsections 14 and 15. Removal of  
hazard by  
Fire Marshal

(13) If the owner is absent from or is a non-resident of Ontario or his whereabouts in Ontario is unknown and there is no occupant of the building or premises, or his whereabouts in Ontario is unknown, the Fire Marshal may direct and procure, Action in  
absence of  
owner of  
premises

(a) the removal of the buildings;

(b) the removal of combustible or explosive material, or the removal of anything that may constitute a fire menace,

in such manner as he considers proper, but no expense shall be incurred for such purpose beyond the amount of \$100 without the approval of the Minister.



Expenses,  
payment

(14) The expense so incurred shall be paid in the first instance out of any appropriation of the Fire Marshal's office.

Collection

(15) The Fire Marshal shall certify to the treasurer of the municipality in which the building, premises or structure is situate the expenses actually and necessarily incurred, and the treasurer shall forthwith pay the amount so certified to the Treasurer of Ontario, and the amount may be entered upon the collector's roll against the land or premises in relation to which action was so taken and constitutes a lien thereon and be levied and collected as taxes against the land or premises.

Minor  
alterations  
and repairs

(16) If the owner of a building or premises is absent from or does not reside in the municipality in which the building or premises is situate, or his whereabouts in the municipality is unknown, the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal, an inspector or an assistant to the Fire Marshal may order the tenant or occupant to make minor alterations or repairs that are urgently required for purposes of fire prevention and the tenant or occupant may deduct the cost of the alterations or repairs from any rent thereafter payable on furnishing the owner with a copy of the order and an accounting of the amount deducted, but a tenant or occupant shall not be required to expend or expend in any year an amount in excess of 25 per cent of the annual rental payable in respect of such tenancy or occupancy. R.S.O. 1960, c. 148, s. 19 (9-16), *amended*.

Power to  
suspend  
deputy or  
other official

**20.**—(1) The Fire Marshal may suspend from duty a district deputy fire marshal or other official for such cause as he considers sufficient and shall report the suspension immediately to the Minister.

Pay to  
cease during  
suspension

(2) The pay of such district deputy fire marshal or other official shall not be allowed during the period of suspension, except by order in writing of the Minister. R.S.O. 1960, c. 148, s. 20.

Fire  
Marshal  
may adopt  
rules for  
prevention  
of fire

**21.**—(1) Subject to the regulations, the Fire Marshal shall, from time to time as is found necessary for the prevention of fire and for safeguarding human life from the danger of fire, adopt rules for the use, storage and handling of explosives and volatile compounds, including crude and refined illuminating and fuel oil, and all the devices and apparatus employed in utilizing the same, but such rules are not effective until approved by the Lieutenant Governor in Council.

Municipal  
by-law to  
take pre-  
cedence  
R.S.O. 1970,  
c. 284

(2) Where a municipality has passed a by-law under paragraphs 10 to 18 of subsection 1 of section 354 of *The Municipal Act* regulating the keeping and manufacturing of explosives, the requirements of the by-law, if more exacting than those approved by the Lieutenant Governor in Council under this section, govern and apply to properties in the municipality. R.S.O. 1960, c. 148, s. 21.

**22.** No municipality shall have, and no person shall have in connection with any fire apparatus or fire-fighting equipment that is installed on any premises, couplings for 1½-inch fire hose or other fittings used in connection with such couplings that are not of the iron pipe standard thread of 11½ threads an inch and that do not conform to the standards and specifications for such couplings and fittings contained in the Canadian Standards Association specification for 1½-inch fire hose coupling screw thread and tail piece internal diameters B89—1954 (2nd edition). R.S.O. 1960, c. 148, s. 22.

Coupling  
standards  
for 1½-inch  
fire hose

**23.** No municipality shall have, and no person shall have in connection with any fire apparatus or fire-fighting equipment that is installed on any premises, couplings for 2½-inch fire hose or other fittings used in connection with such couplings that do not have 5 threads an inch and 3⅛-inch outside diameter of the male coupling and that do not conform to the standards and specifications for such couplings and fittings contained in the Canadian Standards Association specification for 2½-inch fire hose couplings and fittings B89.2—1954 (2nd edition). R.S.O. 1960, c. 148, s. 23.

Coupling  
standards  
for 2½-inch  
fire hose

**24.** No municipality or body in which is vested the management and control of hydrants shall have, and no person shall have in connection with any fire apparatus or fire-fighting equipment that is installed on any premises, hydrants with 2½-inch nozzles that do not conform to the thread standards and specifications referred to in section 23 or operating nuts that are not square in shape with an over-all dimension on each side of 1¼ inches and a depth of not less than 1¼ inches. R.S.O. 1960, c. 148, s. 24.

Hydrant  
standards

**25.** Every person, municipality or body in which is vested the management and control of hydrants that contravenes any of the provisions of section 22, 23 or 24 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for each day upon which the couplings, fittings or hydrants do not conform to the standards and specifications referred to in such sections, and in addition the Fire Marshal may take proceedings by way of mandamus to compel such person, municipality or body to comply with such standards and specifications. R.S.O. 1960, c. 148, s. 25.

Offence

**26.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the respective duties of the Fire Marshal, Deputy Fire Marshal, district deputy fire marshals and inspectors, and of the officers, clerks and servants of the Fire Marshal's office;
- (b) fixing the forms of and particulars to be stated in the records and returns to be made by the Fire Marshal,

Deputy Fire Marshal, and district deputy fire marshals, and by every person who is required under this Act to furnish information to the Fire Marshal;

- (c) requiring such statistical and other information to be furnished to the Fire Marshal as he considers necessary;
  - (d) providing for the appointment of an advisory committee and defining the duties and powers of the committee;
  - (e) providing for licensing and regulating the manufacture, sale, servicing and recharging of fire extinguishers;
  - (f) prescribing the methods of fire prevention to be used in any class of premises or premises used for any specified purpose;
  - (g) prescribing the types, location and testing of fire-fighting apparatus, equipment and devices and fire alarm systems to be used in any class of premises or premises used for any specified purpose;
  - (h) regulating, subject to *The Gasoline Handling Act*, the manner and method of handling and storing flammable liquids or gases in any class of premises or premises used for any specified purpose;
  - (i) providing long service awards for members of the public fire services;
  - (j) prescribing the forms, records and returns to be used, kept and made by fire chiefs in respect of their inspections of any class of premises or premises used for any specified purpose;
  - (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1960, c. 148, s. 26.

R.S.O. 1970,  
c. 189

Certificate  
of appoint-  
ment

**27.** A certificate under the hand and seal of the Fire Marshal of the appointment of a person under this Act is *prima facie* proof of the appointment in any court or elsewhere. R.S.O. 1960, c. 148, s. 27.

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CHAPTER 173

The Fires Extinguishment Act

**1.**—(1) The council of a county may provide by by-law that fire guardians, fence-viewers, overseers of highways or pathmasters appointed by township councils, whenever the woods or prairies in a township are on fire so as to endanger property, shall order as many of the male inhabitants of the township residing in the vicinity of the place where the fire is as may be considered necessary to turn out at the place where the fire prevails and assist in extinguishing it or in stopping its progress.

By-law of county council giving powers

(2) Where there is no county council, the council of a township may pass such by-law. R.S.O. 1960, c. 149, s. 1.

By-law of township council

**2.**—(1) Every such officer shall give to every person employed by him under section 1 a certificate of the number of days work done by him, and such work shall be allowed to him in his next year's statute labour, or, if such person is not liable to perform statute labour or not so many days statute labour as the number mentioned in the certificate, the county council may direct that such work shall be paid for out of the funds of the township, and such person is entitled to be paid by the township treasurer the amount of the certificate or the amount not credited on the next year's statute labour, as the case may be.

Work done to be allowed for as statute labour

(2) The county council may also provide for the application by the township councils of so much of the commutation of statute labour fund as may be required for assisting to extinguish or stop the progress of fires in their respective municipalities. R.S.O. 1960, c. 149, s. 2.

Application of commutation fund by townships

**3.** If a township council neglects to provide for the application of so much of the commutation of statute labour fund, or for payment of such amount as may be required for the purposes mentioned in section 2, the county council may do so and may pay the amount of such certificates and impose upon the township so in default a rate sufficient for that purpose to be levied and collected in the manner provided by *The Municipal Act* for the collection of a county rate. R.S.O. 1960, c. 149, s. 3, *amended*.

Upon default of townships, county may provide for payment of work

R.S.O. 1970, c. 284

**4.** Every person who refuses or neglects to turn out and work under any fire guardian, fence-viewer, overseer of highways or pathmaster, who has ordered him to turn out for that purpose, is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1960, c. 149, s. 4.

Penalty for refusing to assist in extinguishing fires





## CHAPTER 174

## The Fish Inspection Act

**1.** In this Act,Interpre-  
tation

- (a) “container” means a receptacle or package used in holding, storing, packing or marketing fish;
- (b) “establishment” means a place where fish are handled, graded, processed or stored;
- (c) “fish” includes a shellfish, crustacean and any marine animal, and any parts, products or by-products of any of them;
- (d) “inspector” means a person appointed by the Minister as an inspector under this Act or a person declared to be an inspector, *ex officio*, under this Act;
- (e) “marketing” means buying, selling, holding in possession, or offering or advertising for sale;
- (f) “Minister” means the Minister of Lands and Forests;
- (g) “processing” means cleaning, filleting, smoking, salting, icing, packing, freezing, cooking, pickling, drying or otherwise preparing fish for market;
- (h) “regulations” means the regulations made under this Act;
- (i) “vehicle” includes a steamship, vessel, boat, railway-car, truck, carriage, car, aircraft and any other means of carriage used for transporting fish. R.S.O. 1960, c. 150, s. 1; 1968-69, c. 39, s. 1.

**2.—**(1) The Minister may appoint an inspector or inspectors who shall perform such duties as may be prescribed by this Act or the regulations.

Appoint-  
ment of  
inspectors

(2) The Lieutenant Governor in Council may declare that inspectors appointed under the *Fish Inspection Act* (Canada) are inspectors, *ex officio*, under this Act. 1968-69, c. 39, s. 2.

Idem  
R.S.C. 1952,  
c. 118**3.—**(1) An inspector may at any time,Powers of  
inspector

- (a) enter any establishment or vehicle used for the storage or carriage of fish and open any container that he has reason to believe contains fish;

(b) require to be produced for inspection or for the purpose of obtaining copies thereof, or extracts therefrom, any books, shipping bills, bills of lading or other documents or papers relating to the processing, transporting or marketing of fish; or

(c) take samples of fish for inspection.

Obstruction (2) No person shall obstruct or impede an inspector in the discharge of his duties under this Act. R.S.O. 1960, c. 150, s. 2.

Appeal **4.** Any person who thinks himself aggrieved by a decision of an inspector in respect of any matter under this Act or the regulations may appeal to the Minister in accordance with the procedure prescribed in the regulations. R.S.O. 1960, c. 150, s. 3.

Seizure of fish and containers **5.**—(1) Whenever an inspector believes on reasonable grounds that an offence against this Act or the regulations has been committed, he may seize all fish and containers by means of or in relation to which he reasonably believes the offence was committed.

Detention of fish and containers (2) All fish and containers seized under subsection 1 may be detained for a period of two months following the day of seizure, unless during that period proceedings under this Act in respect of such fish and containers are taken, in which case the fish and containers may be further detained until such proceedings are finally concluded.

Disposal of fish seized (3) Where a person is convicted of an offence against this Act or the regulations, any fish or container seized under subsection 1 are forfeited to Her Majesty and may be disposed of as the Minister may direct. R.S.O. 1960, c. 150, s. 4.

Falsification, etc., of documents **6.**—(1) No person shall falsify or unlawfully alter, destroy, erase or obliterate any document made or issued under this Act or the regulations, or any marks placed on any container pursuant to this Act or the regulations.

Offence (2) Every person who contravenes subsection 1 is guilty of an offence and is liable on summary conviction to a fine of not less than \$50 and not more than \$500, or to imprisonment for a term of not less than two months and not more than six months, or to both. R.S.O. 1960, c. 150, s. 5.

Fish for sale to be fit for human food **7.**—(1) No person shall sell, offer for sale, or hold in possession for sale, any fish intended for human consumption unless the fish is wholesome and fit for human food.

(2) Every person who contravenes subsection 1 is guilty of an offence and is liable on summary conviction to a fine of not less than \$100 and not more than \$500, or to imprisonment for a term of not less than three months and not more than six months, or to both. R.S.O. 1960, c. 150, s. 6.

**8.** No person shall sell, offer for sale, or hold in possession for sale, any fish or container under a name calculated to mislead or deceive. R.S.O. 1960, c. 150, s. 7.

**9.** Every person who contravenes any of the provisions of this Act or of the regulations or any condition attached to any licence issued under this Act or the regulations for which no penalty is elsewhere provided in this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$500, or to imprisonment for a term of not more than six months, or to both. R.S.O. 1960, c. 150, s. 8.

**10.** Every offence against this Act or the regulations and every contravention of any of the conditions of any licence issued under this Act or the regulations, for the purposes of any prosecution, shall be deemed to have been committed, and every cause of complaint under this Act or the regulations or any of the conditions of any licence issued under this Act or the regulations shall be deemed to have arisen in the place where the offence was actually committed or the place where it was first discovered by an inspector or the place where the defendant resides or is found. R.S.O. 1960, c. 150, s. 9.

**11.** The Lieutenant Governor in Council may provide for the disposition of fines imposed for contraventions of this Act or the regulations and for the disposition of any proceeds from the sale of forfeited fish or containers. R.S.O. 1960, c. 150, s. 10.

**12.** The Minister may impose such terms and conditions in any licence as he considers proper and that are not inconsistent with this Act or the regulations. R.S.O. 1960, c. 150, s. 11.

**13.** The Lieutenant Governor may by proclamation declare any regulations heretofore or hereafter made under the *Fish Inspection Act* (Canada), in so far as they are within the exclusive legislative jurisdiction of the Province of Ontario, to have the force of law therein, and upon the issue of such proclamation the regulations therein referred to, in so far as they are within the exclusive legislative jurisdiction of the Province of Ontario, have the force of law therein as if enacted by the Legislature. R.S.O. 1960, c. 150, s. 12, *amended*.



Regulations

**14.**—(1) The Lieutenant Governor in Council may, for the purpose of regulating the marketing of fish and containers locally within Ontario, make regulations,

- (a) prescribing grades, qualities and standards of fish for marketing;
- (b) prohibiting or regulating the marketing of fish that are not inspected or that are below any prescribed grade, quality or standard;
- (c) respecting the handling, processing, storing, grading, packaging, marking, transporting and inspecting of fish;
- (d) respecting the quality and specifications for containers and the marking and inspecting of containers;
- (e) prescribing the duties of inspectors;
- (f) requiring and providing for the licensing of establishments and persons handling, processing, storing, grading, transporting or marketing fish, and prescribing and attaching conditions to licences;
- (g) prescribing fees for licences, and for grading and inspection services;
- (h) prescribing the requirements for the equipment and sanitary operation of establishments, and of vehicles used in connection with an establishment or in connection with fishing or the marketing of fish;
- (i) prohibiting the marketing of fish or containers under a grade name or standard prescribed by the regulations unless all the requirements of this Act and the regulations with respect thereto have been complied with;
- (j) prescribing the manner in which samples of fish may be taken;
- (k) prescribing the procedure to be followed in any appeal to the Minister under this Act;
- (l) providing for any thing connected with the marketing or inspection of fish and containers locally within Ontario. R.S.O. 1960, c. 150, s. 13; 1961-62, c. 45, s. 1 (1); 1968-69, c. 39, s. 3.

Application  
of  
regulations

(2) Any regulation may be limited as to area, species of fish, time or otherwise. 1961-62, c. 45, s. 1 (2).

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## CHAPTER 175

## The Fisheries Loans Act

**W**HEREAS by reason of the contamination of fish resulting Preamble  
from the pollution of waters in Ontario it has and may  
become necessary to prohibit the taking of fish in waters in  
Ontario;

AND WHEREAS the prohibition of the taking of fish has created  
and may create temporary financial hardships to persons engaged  
in commercial fishing and other businesses dependent in whole or  
in part on the taking of fish;

*Therefore, Her Majesty, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as follows:*

**1.** In this Act, “Minister” means the Minister of Lands and Interpre-  
Forests. 1970, c. 10, s. 1. tation

**2.**—(1) The Minister on behalf of Her Majesty the Queen in Loans  
right of Ontario may make loans with or without interest in such  
amounts and upon such terms and conditions as he considers  
appropriate to a person carrying on the business of commercial  
fishing or any other business dependent in whole or in part on the  
taking of fish from waters in which such taking has been  
prohibited by reason of the contamination of fish resulting from  
pollution of the waters.

(2) Where the Minister takes any action under this section, he Minister  
shall, quarterly or at the first appropriate time when the Assem- to table  
bly is sitting, table a report in connection with such action and set report  
out clearly in such a report the basis of the terms and conditions  
he considers appropriate in taking any such action. 1970, c. 10,  
s. 2.

**3.** The Minister may on behalf of the Province of Ontario Agreements  
enter into agreements with the Government of Canada in respect  
of the payment to the Province of Ontario of a share of the  
principal and other cost of loans made under section 2 and matters  
related to such loans on such terms and conditions as may be  
agreed upon. 1970, c. 10, s. 3.

**4.** The moneys required for the purposes of section 2 shall be  
paid out of the Consolidated Revenue Fund. 1970, c. 10, s. 4.



## CHAPTER 176

**The Flag Act**

**W**HEREAS it is deemed expedient to adopt a flag of historical significance as the provincial flag of the Province of Ontario; Preamble

AND WHEREAS it is desirable that such flag have the design and colouring of the Canadian Red Ensign except that the badge in the fly be the shield of the armorial bearings of the Province of Ontario granted by Royal Warrant in 1868;

*Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:*

**1.** The flag described and illustrated in the Schedule to this Act is hereby adopted as the provincial flag of the Province of Ontario. Provincial  
flag  
adopted  
1965, c. 42, s. 1.



## SCHEDULE

## 1. Description:

A flag of the shade of red specified in the next following paragraph and of the proportions two by length and one by width with the Union Jack occupying the upper quarter next the staff and with the shield of the armorial bearings of the Province of Ontario centred in the half farthest from the staff.

British Admiralty Colour Code No. T1144 for nylon worsted bunting and No. T818A for other bunting.

## 2. Illustration:



## CHAPTER 177

### The Floral Emblem Act

**1.** The flower known botanically as the *trillium grandiflorum* Floral emblem of Ontario and popularly known as the white trillium is adopted as and shall be deemed to be the floral emblem of the Province of Ontario. R.S.O. 1960, c. 151, s. 1.

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## CHAPTER 178

## The Fluoridation Act

**1.** In this Act,Interpre-  
tation(a) “Chief Election Officer” means the Chief Election Officer appointed under *The Election Act*;R.S.O. 1970,  
c. 142(b) “electors” means electors as defined in *The Municipal Act* and, in a municipality that has a resident voters’ list under *The Municipal Franchise Extension Act*, includes the persons on such list;R.S.O. 1970,  
cc. 284, 288

(c) “fluoridation system” means a system comprising equipment and materials for the addition of a chemical compound to release fluoride ions into a public water supply. 1960-61, c. 30, s. 1.

**2.**—(1) Where a local municipality or a local board thereof owns or operates a waterworks system, the council of the municipality may by by-law establish, maintain and operate, or require the local board to establish, maintain and operate, a fluoridation system in connection with the waterworks system.

Establish-  
ment of  
system

(2) The council may, before passing a by-law under subsection 1, submit the following question to the electors of the municipality:

Vote as to  
establish-  
ment of  
system

Are you in favour of the fluoridation of the public water supply of this municipality?

and, where the question receives the affirmative vote of a majority of the electors who vote on the question, the council shall pass the by-law, or, where the question does not receive the affirmative vote of a majority of the electors who vote on the question, the council shall not pass the by-law until the question has again been submitted to the electors of the municipality and it has received the affirmative vote of a majority of the electors who vote on it. 1960-61, c. 30, s. 2.

**3.**—(1) Where a local municipality or a local board thereof has a fluoridation system in connection with its waterworks system, the council of the municipality may by by-law discontinue, or require the local board to discontinue, the fluoridation system.

Discon-  
tinuance of  
system



Vote as to  
discon-  
tinuance of  
system

(2) The council may before passing a by-law under subsection 1 submit the following question to the electors of the municipality:

Are you in favour of the discontinuance of the fluoridation of the public water supply of this municipality?

and, where the question receives the affirmative vote of a majority of the electors who vote on the question, the council shall pass the by-law, or, where the question does not receive the affirmative vote of a majority of the electors who vote on the question, the council shall not pass the by-law until the question has again been submitted to the electors of the municipality and it has received the affirmative vote of a majority of the electors who vote on it. 1960-61, c. 30, s. 3.

When  
question  
may be  
submitted  
Petition

4.—(1) The council may submit a question under this Act to the electors at any time.

(2) Upon the presentation of a petition requesting that a question under this Act be submitted to the electors, signed by at least 10 per cent of the electors in the municipality, the council shall before or at the next municipal election submit the question to the electors, but, if a petition is presented in the month of November or December in any year, it shall be deemed to be presented in the month of February next following.

Idem

(3) A petition mentioned in subsection 2 shall be deemed to be presented when it is lodged with the clerk of the municipality, and the sufficiency of the petition shall be determined by him and his certificate as to its sufficiency is conclusive for all purposes. 1960-61, c. 30, s. 4.

Joint water-  
works, esta-  
blishment  
of system

5.—(1) Where a waterworks system is operated by or for two or more local municipalities, the body operating the waterworks system shall establish, maintain and operate a fluoridation system in connection therewith,

(a) where there are two such municipalities, only after the councils of both such municipalities have passed a by-law requiring the fluoridation of the water supply of their respective municipalities; or

(b) where there are more than two such municipalities, only after the councils of a majority of such municipalities have passed a by-law requiring the fluoridation of the water supply of their respective municipalities.

Idem, dis-  
continuance

(2) A fluoridation system established under subsection 1 shall be discontinued where the councils of both municipalities or of a majority of the municipalities, as the case may be, have passed by-laws requiring the discontinuance of the fluoridation system in their respective municipalities.

(3) Where petitions signed by at least 10 per cent of the electors in each such municipality, where there are two such municipalities, or in each of a majority of such municipalities, where there are more than two, are presented to the Chief Election Officer requesting that a question under this Act be submitted in both or all of such municipalities, as the case may be, each of the municipalities by or for which the waterworks system is operated shall submit the question to its electors on a date to be fixed by the Chief Election Officer, and the clerk of each such municipality shall certify the result of the vote in his municipality to the Chief Election Officer.

Vote on  
question  
upon  
petition

(4) If a majority of the votes cast in both or all of such municipalities, as the case may be, on the question set out in section 2 is in the affirmative, each such municipality shall pass a by-law under subsection 1, or, if a majority of the votes cast in both or all of such municipalities, as the case may be, is in the negative, no by-law under subsection 1 shall be passed until the question has again been submitted to and has received the affirmative vote of a majority of the electors who vote on it.

Result of  
vote, estab-  
lishment

(5) If a majority of the votes cast in both or all of such municipalities, as the case may be, on the question set out in section 3 is in the affirmative, the council of each such municipality shall pass a by-law requiring the discontinuance of the fluoridation system in its municipality. 1960-61, c. 30, s. 5.

Idem, dis-  
continuance

**6.**—(1) The council of any local municipality that obtains its water supply under an agreement with a company public utility may pass a by-law requiring the fluoridation of the water supply, and thereupon the company shall establish, maintain and operate a fluoridation system in connection with the water supply of the municipality on such terms and conditions as the council of the municipality and the company agree upon or, failing agreement, as are determined by arbitration under *The Arbitrations Act*.

Company  
public  
utilities

R.S.O. 1970,  
c. 25

(2) Any fluoridation system established under subsection 1 shall be discontinued where the council of the municipality has passed a by-law requiring its discontinuance, and the terms and conditions of the discontinuance may be agreed upon by the council of the municipality and the company or, failing agreement, may be determined by arbitration under *The Arbitrations Act*. 1960-61, c. 30, s. 6.

Idem, dis-  
continuance

**7.**—(1) In this section, the expressions “area municipality” and “Metropolitan Corporation” have the same meanings as in *The Municipality of Metropolitan Toronto Act*.

Metropolitan  
Toronto  
R.S.O. 1970,  
c. 295

(2) The council of the Metropolitan Corporation may by by-law establish, maintain and operate or discontinue a fluoridation system in connection with the Metropolitan waterworks system.

Establish-  
ment and  
discon-  
tinuance of  
system

Vote on  
question

(3) The council of the Metropolitan Corporation may fix a day for the submission of a question under this Act to the electors, in which event the area municipalities shall submit the question to their respective electors accordingly, and the clerk of each area municipality shall forthwith certify the result of the vote in his area municipality to the clerk of the Metropolitan Corporation.

Idem, upon  
petition

(4) Where petitions signed by at least 10 per cent of the electors in each of a majority of the area municipalities, certified by the clerks of the respective area municipalities, are presented to the Metropolitan Corporation requesting that a question under this Act be submitted under subsection 3, the council of the Metropolitan Corporation shall fix a day for the submission of the question under subsection 3.

Establish-  
ment after  
vote

(5) If a majority of the votes cast in all of the area municipalities on the question set out in section 2 is in the affirmative, the Metropolitan Corporation shall pass a by-law under subsection 2, or, if a majority of the votes cast in all of the area municipalities is in the negative, a by-law under subsection 2 shall not be passed until the question has again been submitted and has received the affirmative vote of a majority of the electors who vote on it.

Discon-  
tinuance  
after vote

(6) If a majority of the votes cast in all of the area municipalities on the question set out in section 3 is in the affirmative, the council of the Metropolitan Corporation shall pass a by-law discontinuing the fluoridation system in connection with the Metropolitan waterworks system. 1960-61, c. 30, s. 7.

Systems  
existing  
on March  
29, 1961  
R.S.O. 1960,  
c. 321

**8.** Every fluoridation system that was being operated under the authority of *The Public Health Act* on the 29th day of March, 1961, shall be deemed to have been established and to be maintained and operated under the authority of this Act. 1960-61, c. 30, s. 8, *amended*.

Regulations

**9.—**(1) The Lieutenant Governor in Council may make regulations,

- (a) governing and regulating the equipment and processes that may be used in fluoridation systems;
- (b) prescribing the nature and amount of the chemical compounds that may be used in fluoridation systems;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Idem

(2) Any such regulation may be general or particular in its application. 1960-61, c. 30, s. 9.

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CHAPTER 179

The Forest Fires Prevention Act

INTERPRETATION

- 1.** In this Act,

  - (a) “Department” means the Department of Lands and Forests;
  - (b) “Minister” means the Minister of Lands and Forests;
  - (c) “municipality” means a city, town, village, township or improvement district;
  - (d) “officer” includes a fire warden appointed under section 8 and a special officer appointed under section 9 exercising the powers of his appointment;
  - (e) “owner” includes a locatee, purchaser from the Crown, assignee, lessee, occupant, purchaser, timber licensee, holder of a mining claim or location, and any person having the right to cut timber or wood upon any land;
  - (f) “regulations” means the regulations made under this Act. 1968, c. 44, s. 1.

Interpretation

ADMINISTRATION

- 2.** The administration of this Act is under the control and direction of the Minister. 1968, c. 44, s. 2.

Administration
- 3.**—(1) This Act applies only to fire districts.

(2) Nothing in this Act affects or shall be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire. 1968, c. 44, s. 3.

Application of Act

Right of action for damages not affected
- 4.** The Minister may appoint officers for carrying out this Act and the regulations. 1968, c. 44, s. 4.

Appointment of officers
- 5.**—(1) Subject to subsection 2, an officer may, for the purposes of this Act, enter into and upon any lands and premises.

(2) An officer shall not enter any place actually used as a dwelling without the consent of the occupant except under the authority of a search warrant issued under section 14 of *The Summary Convictions Act*. 1968, c. 44, s. 5.

Right of officer to enter on premises

Entry to dwellings

R.S.O. 1970, c. 450



Information to be given to officer by tourists, etc.

**6.** Every person in a forest or woodland shall, upon request, give an officer information as to his name, address, routes to be followed, location of camps and any other information pertaining to the protection of the forest or woodland from fire. 1968, c. 44, s. 6.

Right to summon assistance

**7.** For the purpose of controlling and extinguishing a fire, an officer may use any privately-owned equipment and may employ or summon the assistance of any male person between the ages of eighteen and sixty years, except persons providing essential services and persons physically unfit, and on private lands may take such action as he considers advisable to control and extinguish a fire. 1968, c. 44, s. 7.

Appointment of fire wardens

**8.** The Minister may appoint fire wardens who shall have authority to enforce such of the provisions of this Act and the regulations as are provided in the appointment in the areas specified in the appointment. 1968, c. 44, s. 8.

Special officers

**9.—(1)** Where the Minister considers it advisable in the interest of forest protection, he may appoint special officers who shall have authority to enforce this Act and the regulations on the land mentioned in the appointment.

Salaries

**(2)** The owner of the land mentioned in an appointment made under subsection 1 shall reimburse the Department for the salaries and expenses of the special officers. 1968, c. 44, s. 9.

#### FIRE SEASON

Fire season

**10.** The period from the 1st day of April to the 31st day of October in each year shall be a fire season. 1968, c. 44, s. 10.

#### FIRE PERMITS

Prohibition against fire except under fire permit

**11.—(1)** Except under the authority of a fire permit, no person shall start a fire outdoors during a fire season for any purpose other than cooking or obtaining warmth.

Prohibition against fireworks except under fire permit

**(2)** Except under the authority of a fire permit, no person shall ignite fireworks during a fire season in or within 1,000 feet of a forest or woodland.

Issue of fire permit

**(3)** Upon application therefor an officer may issue a fire permit.

Limitations in permit

**(4)** A fire permit may be limited as to duration and area, but in any event it expires with the fire season and may contain such terms and conditions as the issuing officer considers necessary.

(5) A fire permit may be cancelled or suspended at any time by an officer, and immediately upon receiving notice of such cancellation or suspension, the permittee shall extinguish any fire started under the permit. 1968, c. 44, s. 11.

Cancellation or suspension of permit

#### RESTRICTED ZONES

**12.** No person shall start a fire outdoors in a restricted fire zone for the purpose of cooking or obtaining warmth except in a portable stove or charcoal installation. 1968, c. 44, s. 12.

Camp fires

**13.**—(1) Except under the authority of a forest travel permit, no person shall enter and travel about in a restricted travel zone except,

Travel permits

- (a) on public roads, not including unopened road allowances, and all lands vested in Her Majesty the Queen as represented by the Minister of Highways;
- (b) in cities, towns, villages and police villages;
- (c) in supervised camp grounds; and
- (d) on waters that are immediately adjacent to any of the parts referred to in clause *a*, *b* or *c*.

(2) Upon application therefor an officer may issue a forest travel permit.

Issue

(3) A forest travel permit may be limited as to duration and area, but in any event it expires with the fire season and may contain such terms and conditions as the issuing officer considers necessary.

Limitations in permits

(4) A forest travel permit may be cancelled or suspended at any time by an officer. 1968, c. 44, s. 13.

Cancellation or suspension

**14.**—(1) The Minister shall provide for such notice as he considers necessary under the circumstances of any regulation made under clause *b* of section 36 in such newspapers and other media as in his opinion will give the greatest publicity.

Notice of regulations

(2) In any prosecution under section 12 or subsection 1 of section 13 in respect of an offence alleged to have been committed prior to publication of the regulation under *The Regulations Act*, the onus is on the person charged to prove he did not have actual notice of the regulation at the time the offence is alleged to have been committed. 1968, c. 44, s. 14.

Burden of proof  
R.S.O. 1970,  
c. 410

## WORK PERMITS

Work  
permits

**15.**—(1) Except under the authority of a work permit, no person shall, in or within 1,000 feet of a forest or woodland,

- (a) carry on any logging, mining or industrial operation;
- (b) clear land;
- (c) construct a dam, bridge or camp;
- (d) operate a mill for the purpose of manufacturing timber; or
- (e) carry on any operation liable to cause the accumulation of slash or debris.

Conditions

(2) A work permit may be limited as to duration and area, but in any event it expires with the 31st day of March next following the date of issue and may contain such terms and conditions as the issuing officer considers necessary.

Cancellation

(3) An officer may in the interest of forest protection cancel or suspend a work permit at any time.

*Per diem*  
penalty

(4) Where an officer finds an operation mentioned in subsection 1 being conducted without a work permit, he may order that the operation shall cease until a work permit has been obtained and any person carrying on an operation after such order has been made is, in addition to any penalty imposed, subject to a fine of \$100 for each day such operation is continued without a work permit.

Person  
to obtain  
work permit

(5) Where a person carries on an operation mentioned in subsection 1 through a servant, contractor, subcontractor or someone on his behalf, he shall obtain any permit required under this Act and he shall be deemed to have committed any offence against this Act or the regulations committed by his servant, contractor, subcontractor or person acting on his behalf in carrying out the operation. 1968, c. 44, s. 15.

## PREVENTION MEASURES

Disposal of  
refuse on  
land being  
cleared

**16.**—(1) Every person clearing land shall, subject to the provisions of this Act respecting fire permits, pile and burn all brush, debris, non-merchantable timber and other flammable material cut or accumulated thereon. 1968, c. 44, s. 16.

Exception

(2) Subsection 1 does not apply to material that has been ground, chipped or shredded in an installation approved in the work permit authorizing the clearing of the land. 1970, c. 13, s. 1.

Clearing in  
neighbour-  
hood of  
mills, etc.

**17.** Every person having charge of a camp, a mine, a mill for the purpose of manufacturing timber or a garbage dump that is located in or within 1,000 feet of a forest or woodland shall have

the area surrounding the camp, mine, mill or dump cleared of flammable debris for a distance of at least 100 feet and such further distance as may be ordered by an officer. 1968, c. 44, s. 17.

**18.—**(1) Where an officer finds on any land, building, structure or equipment a condition that, in his opinion, may cause danger to life or property from fire, the officer may order the owner or person in control thereof or the person who has caused the condition to take such action as the officer considers necessary to remedy the condition, and in default the officer, with such assistants as he requires, may remedy the condition.

Power of  
officer as  
to fire  
dangers

(2) The cost and expenses of any action taken by an officer and his assistants under subsection 1 shall be paid by the owner or person in control of the land or the person who has caused the condition and are recoverable by the Crown in right of Ontario in any court of competent jurisdiction. 1968, c. 44, s. 18.

Cost

**19.** The Minister and the Crown in right of Canada or any province of Canada, any agency of any of them or any municipality may enter into an agreement with respect to the prevention and control of forest fires. 1968, c. 44, s. 19.

Agreements  
for forest  
fire preven-  
tion and  
control

#### EXTINGUISHMENT OF FIRES

**20.** An officer may at any time in the interest of forest protection extinguish a fire or order any person in charge or apparently in charge of a fire to extinguish the fire. 1968, c. 44, s. 20.

Extinguish-  
ment of  
fires

**21.—**(1) Subject to an agreement made under section 19 and to subsection 2, every municipality in a fire district shall at its expense extinguish grass, brush or forest fires within its limits, but where the action taken by it in extinguishing any such fire is in the opinion of an officer not adequate, the officer may take such action as he considers necessary to control and extinguish the fire and the cost and expenses incurred by the Department in controlling and extinguishing the fire are a debt due to the Crown in right of Ontario and shall be paid by the municipality to the Treasurer of Ontario.

Duty of  
municipi-  
pality

(2) Upon satisfactory proof being furnished by the municipality that a fire has started on Crown land, the cost and expenses of controlling and extinguishing the fire shall be borne by the Department. 1968, c. 44, s. 21.

Contribu-  
tion by  
Department

**22.** Every person who has started a fire outdoors, or is in charge of a fire outdoors, that is not kept under control shall report the fire without undue delay to an officer and in any prosecution or action the onus is upon him to prove that he so reported the fire. 1968, c. 44, s. 22.

Reporting  
of fires



Evacuation,  
etc.

**23.**—(1) Where in the opinion of the Minister a forest fire emergency exists, he may by order declare an area to be a forest fire emergency area and may make such orders and take such action as he considers necessary for effectual fire suppression or the safety of or evacuation of persons in the area.

Order not a  
regulation  
R.S.O. 1970,  
c. 410

(2) An order made under subsection 1 is not a regulation within the meaning of *The Regulations Act*. 1968, c. 44, s. 23.

#### OFFENCES

Obstruc-  
tion of  
officers

**24.** No person shall hinder, obstruct or impede an officer in the performance of his duties. 1968, c. 44, s. 24.

Rendering  
assistance

**25.** No person shall refuse or neglect to provide any privately-owned equipment or to render assistance when required under section 7. 1968, c. 44, s. 25.

Accumula-  
tion of  
flammable  
refuse

**26.** No person shall within one-half mile of a village, town or city accumulate flammable debris or permit any such accumulation to remain on any property owned by him or under his control. 1968, c. 44, s. 26.

Smoking  
prohibited

**27.** No person shall smoke while walking or working in a forest or woodland during the fire season. 1968, c. 44, s. 27.

Smoking  
material,  
etc.

**28.** No person shall throw or drop, in or within 1,000 feet of a forest or woodland,

- (a) a lighted match, cigarette, cigar or other smoking material;
- (b) live coals; or
- (c) hot ashes. 1968, c. 44, s. 28.

Discharge  
of fire-arms

**29.** No person who discharges a fire-arm or flare in or within 1,000 feet of a forest or woodland shall leave any residue from the discharge unextinguished. 1968, c. 44, s. 29.

Destruc-  
tion of  
notices  
or signs

**30.** No person shall, without lawful authority, tear down, remove, damage, deface or interfere with any notice or sign put up, posted or placed by the Department for the purposes of fire prevention. 1968, c. 44, s. 30.

Destruc-  
tion of  
equipment,  
etc.

**31.** No person shall, without lawful authority, tear down, remove, damage, deface or interfere with any equipment, building or structure placed in a forest or woodland for the purpose of protecting the forest. 1968, c. 44, s. 31.

Spark  
arresters

**32.** No person shall use or operate in or within 1,000 feet of a forest or woodland any burner, chimney, engine, incinerator or other spark-emitting outlet that is not provided with an adequate device for arresting sparks. 1968, c. 44, s. 32.

**33.** The provisions of any order, rule or direction of the Canadian Transport Commission and of the railway transport committee established by that commission respecting the prevention and control of fires apply *mutatis mutandis* to any railway that is subject to the legislative jurisdiction of the Province of Ontario. 1968, c. 44, s. 33. Railways

#### PENALTIES

**34.**—(1) Every person who disobeys or refuses or neglects to carry out any of the provisions of this Act or the regulations or of any order made thereunder or any condition of any permit issued thereunder is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both, and such person is also liable to the Crown in right of Ontario for any cost and expenses incurred by the Department in endeavouring to control or extinguish any fire caused by or resulting from such disobedience, refusal or neglect. 1968, c. 44, s. 34 (1). Offences

(2) The cost and expenses for which a person is liable under subsection 1 are recoverable with costs in any court of competent jurisdiction as a debt due, but where the amount claimed does not exceed \$1,000 and proceedings are taken under *The Summary Convictions Act* in respect of the disobedience, refusal or neglect, the provincial judge, upon making a conviction, may order payment of such amount to the Treasurer of Ontario and every such order may be enforced in the same manner as a small claims court judgment. 1968, c. 44, s. 34 (2), *amended*. Recovery of expenses  
R.S.O. 1970,  
c. 450

(3) In any prosecution under a section of this Act that requires a permit, the onus is on the person charged to prove that he had a permit at the time the offence is alleged to have been committed. 1968, c. 44, s. 34 (3). Onus of proof

#### REGULATIONS

**35.** The Lieutenant Governor in Council may make regulations, Regulations by Lt. Gov. in Council

- (a) declaring parts of Ontario to be fire districts and declaring the name that each fire district shall bear;
- (b) governing the issue, form, refusal and cancellation of permits or any class of them and prescribing their terms and conditions;
- (c) designating classes of operations and activities and governing the equipment, staff and precautions to be provided or observed in respect of fire prevention or suppression by persons engaged in any class of operation or activity;
- (d) governing the use of portable stoves and charcoal installations in a restricted fire zone;

- (e) prescribing forms and providing for their use;
- (f) respecting any matter necessary or advisable to carry out effectively forest fire prevention and the intent and purpose of this Act. 1968, c. 44, s. 35.

Regulations  
by Minister

**36.** The Minister may make regulations,

- (a) declaring any period between the 1st day of January and the 31st day of March, both inclusive, or between the 1st day of November and the 31st day of December, both inclusive, in any year to be a fire season in a fire district or any part of a fire district;
  - (b) declaring any fire district or part of a fire district to be a restricted fire zone or restricted travel zone for any period;
  - (c) fixing the rates of pay for persons employed or summoned under section 7. 1968, c. 44, s. 36.
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## CHAPTER 180

### The Forest Tree Pest Control Act

**1.** In this Act,

Interpretation

- (a) “control measures” includes measures to prevent, retard, suppress, eradicate or destroy;
- (b) “forest tree pest” means any vertebrate or invertebrate animal or any virus, fungus, or bacterium or other organism that is injurious to trees commonly found growing in a forest or windbreak or the products from such trees and that is designated as a forest tree pest in the regulations;
- (c) “infestation” means an actual or potential infestation or infection by a forest tree pest;
- (d) “Minister” means the Minister of Lands and Forests;
- (e) “officer” means a person appointed by the Minister for the purposes of this Act;
- (f) “regulations” means the regulations made under this Act. 1968, c. 45, s. 1.

**2.** The Minister may appoint officers for the purpose of carrying out this Act. 1968, c. 45, s. 2.

Appointment of officers

**3.** An officer, with or without the consent of the owner, may enter upon any land between sunrise and sunset and make an inspection of the land and the trees and forest products thereon to detect and appraise an infestation. 1968, c. 45, s. 3.

Powers of officer

**4.** Where in the opinion of the Minister the control of an infestation on any land is in the public interest, the Minister may direct an officer to enter upon the land and, at the expense of the Crown, take such control measures as he considers advisable in the circumstances. 1968, c. 45, s. 4.

Control measures

**5.—(1)** No person shall hinder, obstruct or impede an officer in the performance of his duty.

Obstruction of officers

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1968, c. 45, s. 5.

Penalty



Regula-  
tions

**6.**—(1) The Lieutenant Governor in Council may make regulations designating forest tree pests for the purposes of this Act.

Regula-  
tion may be  
limited

(2) Any regulation made under subsection 1 may be limited territorially or as to time or otherwise. 1968, c. 45, s. 6.

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## CHAPTER 181

### The Forestry Act

#### 1. In this Act,

Interpre-  
tation

- (a) “forestry purposes” includes the production of wood and wood products, provision of proper environmental conditions for wild life, protection against floods and erosion, recreation, and protection and production of water supplies;
- (b) “Minister” means the Minister of Lands and Forests;
- (c) “municipality” includes a district municipality and a regional municipality;
- (d) “nursery stock” means coniferous or hardwood seedlings, transplants, grafts or trees propagated or grown in a nursery and having the roots attached, and includes cuttings having or not having the roots attached;
- (e) “owner” means a person having any right, title, interest or equity in land;
- (f) “private forest reserve” means land declared to be a private forest reserve under this Act;
- (g) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 153, s. 1; 1961-62, c. 47, s. 1; 1967, c. 29, s. 1; 1970, c. 114, s. 1.

**2.—**(1) The Minister may enter into agreement with the owners of lands that are suitable for forestry purposes for the management of such lands upon such terms and conditions as he considers proper, but no such agreement shall be entered into for a term of less than twenty years.

Agreements  
as to  
forestry  
develop-  
ment

(2) The Minister may make grants out of the moneys appropriated therefor by the Legislature to any conservation authority or to any municipality for the purpose of assisting it in the acquisition of lands that are suitable for forestry purposes and that are to be managed under an agreement entered into under subsection 1 of such sums as are provided for in the agreement.

Grants

(3) A conservation authority or municipality that has entered into an agreement under subsection 1 shall not, without the approval of the Lieutenant Governor in Council, use any lands in respect of which grants have been made under subsection 2 for any purpose that is inconsistent with forestry purposes at any time during the life of the agreement or at any time thereafter,

Forestry  
purposes  
only

and the conservation authority or municipality, as the case may be, unless the order of approval of the Lieutenant Governor in Council otherwise provides, shall repay to the Province of Ontario all grants to it under the agreement in respect of the lands that are used for a purpose that is inconsistent with forestry purposes.

Sale of  
lands

(4) Lands in respect of which grants have been made under subsection 2 shall not, without the approval of the Lieutenant Governor in Council, be sold, leased or otherwise disposed of during the life of the agreement or at any time thereafter, and the proceeds from any sale, lease or other disposition of any such lands shall be shared equally by the conservation authority or municipality, as the case may be, and the Province of Ontario.

Exception

(5) Subsection 4 does not apply to a sale, lease or other disposition for the uses of the Province of Ontario. R.S.O. 1960, c. 153, s. 2.

Registration  
of agree-  
ments

**3.** The Minister may direct that an agreement entered into under section 2 shall be registered by the owner of the land in respect of which the agreement is made in the proper registry or land titles office, and thereupon such agreement is binding upon and inures to the benefit of every successor-in-title to such owner during the term of the agreement. R.S.O. 1960, c. 153, s. 3.

Right of  
entry and  
inspection

**4.** The Minister or any person appointed by him for the purpose may, without the consent of the owner, enter upon any land and make an inspection thereof and survey and examine the timber and other natural resources thereon in order to determine the suitability of the land for forestry purposes. R.S.O. 1960, c. 153, s. 4.

Declaring  
forest land  
private  
forest  
reserve

**5.—(1)** The Lieutenant Governor in Council may, with the consent of the owner of any land covered with forest or suitable for reforestation, declare the land to be a private forest reserve.

Registration  
of  
declaration

(2) The declaration shall be registered forthwith by the owner in the proper registry or land titles office and thereupon the land constitutes in perpetuity a private forest reserve.

Cutting and  
removing  
trees

(3) The owner of a private forest reserve shall not cut or remove any trees growing thereon without the consent of the Minister. R.S.O. 1960, c. 153, s. 5.

Release of  
reserved  
timber  
rights

**6.—(1)** Where the letters patent granting any land declared to be a private forest reserve under this Act contain a reservation of any class or kind of timber, the Minister, upon application and payment by the owner of a purchase price determined by the Minister, may make an order releasing the land from such reservation.

(2) Where lands are released from a reservation of any class or kind of timber under subsection 1, the cutting or removal of such timber is subject to subsection 3 of section 5. R.S.O. 1960, c. 153, s. 6. Effect of release

**7.**—(1) The Lieutenant Governor in Council may authorize the Minister to establish one or more nurseries for the growing and production of nursery stock. Establishment of nurseries

(2) The Minister, upon application therefor, may furnish nursery stock to any owner upon such terms and conditions as the regulations prescribe. Furnishing of nursery stock

(3) The Minister may authorize the furnishing of nursery stock to any public authority or any association, board, institute, society or other organization for educational or scientific purposes upon such terms and conditions as he considers proper. Idem

(4) No person shall, directly or indirectly, sell or offer for sale or dispose of by gift or otherwise any nursery stock furnished under this Act. Sale, etc., of nursery stock prohibited

(5) No person shall knowingly make any false statement of fact in an application to the Minister for nursery stock. R.S.O. 1960, c. 153, s. 7. False statement in application

**8.** Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$500. R.S.O. 1960, c. 153, s. 8. Offence

**9.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prohibiting or regulating and governing the running at large of live stock or other domestic animals in private forest reserves;
- (b) respecting the preservation of trees on private forest reserves;
- (c) governing the form of and the manner in which application for nursery stock shall be made and prescribing the manner and time of payment therefor where a charge is made;
- (d) prescribing the purposes for which nursery stock may or may not be furnished;
- (e) prescribing the classes of land in respect of which and the terms and conditions under which nursery stock may be furnished free of charge or with a charge;



- (f) fixing the charges to be made for nursery stock or any species or type thereof;
  - (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 153, s. 9.
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## CHAPTER 182

## The Fraudulent Conveyances Act

**1.** In this Act,Interpre-  
tation

- (a) “conveyance” includes gift, grant, alienation, bargain, charge, encumbrance, limitation of use or uses of, in, to or out of real property or personal property by writing or otherwise;
- (b) “personal property” includes goods, chattels, effects, bills, bonds, notes and securities, and shares, dividends, premiums and bonuses in a bank, company or corporation, and any interest therein;
- (c) “real property” includes lands, tenements, hereditaments and any estate or interest therein. R.S.O. 1960, c. 154, s. 1.

**2.** Every conveyance of real property or personal property and every bond, suit, judgment and execution heretofore or hereafter made with intent to defeat, hinder, delay or defraud creditors or others of their just and lawful actions, suits, debts, accounts, damages, penalties or forfeitures are void as against such persons and their assigns. R.S.O. 1960, c. 154, s. 2.

Where  
conveyances  
void as  
against  
creditors

**3.** Section 2 does not apply to an estate or interest in real property or personal property conveyed upon good consideration and *bona fide* to a person not having at the time of the conveyance to him notice or knowledge of the intent set forth in that section. R.S.O. 1960, c. 154, s. 3.

Where s. 2  
does not  
apply

**4.** Section 2 applies to every conveyance executed with the intent set forth in that section notwithstanding that it was executed upon a valuable consideration and with the intention, as between the parties to it, of actually transferring to and for the benefit of the transferee the interest expressed to be thereby transferred, unless it is protected under section 3 by reason of *bona fides* and want of notice or knowledge on the part of the purchaser. R.S.O. 1960, c. 154, s. 4.

Where s. 2  
applies

**5.** Every conveyance of real property heretofore or hereafter made with intent to defraud and deceive the purchaser shall be deemed to be void only as against that person and his assigns and all persons lawfully claiming under him or them who have purchased or hereafter purchase for money or other good consideration the same real property or a part thereof. R.S.O. 1960, c. 154, s. 5.

When  
fraudulent  
conveyances  
declared  
void as  
against  
purchasers

Where s. 5  
does not  
apply

**6.** Section 5 does not apply to and shall not be construed to impeach, defeat or make void a conveyance of real property made *bona fide* and for good consideration. R.S.O. 1960, c. 154, s. 6.

Convey-  
ances made  
revocable

**7.**—(1) If a person makes a conveyance of real property with a clause, provision, article, or condition of revocation, determination or alteration at his will or pleasure, and after such conveyance bargains, sells, demises, grants, conveys or charges such real property or a part thereof to a person for money or other good consideration paid or given, such first conveyance not being by him revoked, made void or altered according to the power and authority so reserved or expressed therein, then such first conveyance as touching the real property so after bargained, sold, conveyed, demised or charged is void against the bargainees, vendees, lessees, grantees, their heirs, successors, and their assigns and against every person lawfully claiming under them.

Saving as to  
mortgages

(2) No lawful mortgage made *bona fide*, and without fraud or covin, and upon good consideration shall be impeached or impaired by force of this Act, but it has the like force and effect as if this Act had not been passed. R.S.O. 1960, c. 154, s. 7.

Validity of  
voluntary  
conveyance,  
etc., exe-  
cuted in  
good faith  
and duly  
registered

**8.**—(1) Nothing in section 5, 6 or 7 extends to a conveyance that is executed in good faith and duly registered in the proper registry or land titles office before the execution of the conveyance to, and before the creation of any binding contract for the conveyance to a subsequent purchaser from the same grantor of the same real property or a part thereof, nor is such a conveyance merely by reason of the absence of a valuable consideration void as against such purchaser or his heirs, executors, administrators or assigns or any person claiming by, from or under any of them.

Effect of  
subs. 1

(2) Nothing in subsection 1 has the effect of making valid an instrument that is for any reason, other than or in addition to the absence of a valuable consideration, void under section 5, 6 or 7 or otherwise, nor has the effect of making valid an instrument as against a purchaser who had before the 28th day of February, 1868, entered into a binding contract for or received his conveyance upon such purchase. R.S.O. 1960, c. 154, s. 8.

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CHAPTER 183

The Fraudulent Debtors Arrest Act

1. In this Act,

(a) “county” includes a provisional judicial district;

(b) “county court” includes a district court;

(c) “sheriff” includes any officer to whom an order for arrest is delivered for execution. R.S.O. 1960, c. 155, s. 1.

Interpretation
- 2.—(1) When a person by affidavit of himself or some other person shows to the satisfaction of a judge of the Supreme Court or of a county court that he has a cause of action against a person liable to arrest to the amount of not less than \$100, and also such facts and circumstances as satisfy the judge that there is a good and probable cause for believing that such person, unless he be forthwith apprehended, is about to quit Ontario with intent to defraud his creditors generally or the applicant in particular, the judge may order that the person against whom the application is made be arrested and give security for such sum as the judge thinks fit.

(2) A judge of a county court may make an order for arrest in the Supreme Court as well as in his own court.

(3) The order may be made as well before as after the action has been commenced.

(4) Where the order is made before action, unless an action is commenced and notice thereof is given to the sheriff within two days after the date of the order or within such further time as the judge by the order allows, the order shall be superseded and the person against whom it was made is, if under arrest, entitled to be discharged out of custody. R.S.O. 1960, c. 155, s. 2.

When order for arrest of debtor may be made

Powers of county court judge

Order before action

When action to be brought
3. An order for arrest shall be in force for two months from its date and no longer, but on its expiration a new order may be obtained in the manner provided by this Act. R.S.O. 1960, c. 155, s. 3.

Term of validity
- 4.—(1) Every order of the Supreme Court or of a county court directing payment of money or of costs, charges or expenses, so far as it relates thereto, shall be deemed a judgment, and the person to receive payment a creditor, and the person to make payment a debtor, within the meaning of this Act.

Effect of orders for payment



Who to be deemed the plaintiff, etc.

(2) Where the judgment or order directs the payment of money into court or otherwise than to a person, the person having the carriage of the judgment or order, so far as relates to the payment, shall be deemed the person to receive payment or the plaintiff, as the case may be, within the meaning of this Act. R.S.O. 1960, c. 155, s. 4.

Limit of security in alimony

**5.** Where an order for arrest is made in an action for alimony, the amount for which security is to be given shall not exceed what may be considered sufficient to cover the amount of future alimony for two years, besides arrears and costs, but may be for less, at the discretion of the judge. R.S.O. 1960, c. 155, s. 5.

Concurrent order for arrest

**6.** Concurrent or duplicate orders may be issued from time to time in like manner and form as the original order, and shall be in force for the same period as the original order and no longer. R.S.O. 1960, c. 155, s. 6.

Costs

**7.** Unless otherwise ordered, the costs of and incidental to an order for arrest are costs in the cause. R.S.O. 1960, c. 155, s. 7.

Order and copies to be delivered to sheriff

**8.** The order and as many copies thereof as there are persons intended to be arrested thereon shall be delivered to the sheriff, and the plaintiff or his solicitor may direct the sheriff to arrest one or more of the persons there named, which direction shall be obeyed by the sheriff. R.S.O. 1960, c. 155, s. 8.

Time within which arrests to be made

**9.** The sheriff shall, within two months from the date of the order, but not afterwards, execute it according to the exigency thereof, and shall upon or immediately after its execution cause one copy of it to be delivered to the person whom he is directed to arrest, and shall exhibit the original order to him. R.S.O. 1960, c. 155, s. 9.

Endorsement of date

**10.** The sheriff shall, within two days after the arrest, endorse on the order the true date of the arrest. R.S.O. 1960, c. 155, s. 10.

Privileged persons

**11.** No person is subject to arrest who, by reason of any privilege, usage or otherwise, is by law exempt therefrom. R.S.O. 1960, c. 155, s. 11.

Arrest for non-payment of money, costs, etc., abolished

**12.** No person is liable to arrest for contempt for non-payment of any sum of money or of any costs, charges or expenses payable by a judgment or order of the Supreme Court or of a judge thereof, or of a county court or of a judge thereof, and no person is liable to arrest for non-payment of costs. R.S.O. 1960, c. 155, s. 12.

Married women

**13.** A married woman is not liable to arrest on mesne or final process. R.S.O. 1960, c. 155, s. 13.

**14.** The security in the action to be given by the defendant pursuant to the order for arrest may be by payment into court of the amount mentioned in the order, or by a bond to the plaintiff by the defendant and two sufficient sureties, or, with the leave of the judge or officer who allows the bond, either one surety or more than two, or, with the plaintiff's consent, by any other form of security. R.S.O. 1960, c. 155, s. 14.

Security by defendant in action

**15.** Where the security is given by bond, the condition shall be that the defendant will pay the amount by any judgment in the action adjudged to be recovered or directed to be paid, either as a debt or for damages or costs, or will render himself to the custody of the sheriff of the county in which the action has been commenced or that the sureties will do so for him. R.S.O. 1960, c. 155, s. 15.

Condition of bond

**16.** A person who has been indemnified for so doing by a solicitor concerned for the defendant shall not be a surety in such bond. R.S.O. 1960, c. 155, s. 16.

Persons ineligible as sureties

**17.** Where the plaintiff's claim exceeds \$4,000, it is sufficient for each surety to justify in \$4,000 beyond the amount of the claim. R.S.O. 1960, c. 155, s. 17.

Justification when claim over \$4,000

**18.** The bond shall be filed in the office in which the action was commenced, and may be allowed by the proper officer in such office or by the local judge or master upon service upon the plaintiff or his solicitor of notice of the filing of the bond and of the names and addresses of the sureties and a copy of an appointment from such officer, local judge, or master at least forty-eight hours, unless otherwise directed by the officer, judge or master, before the time named in the appointment. R.S.O. 1960, c. 155, s. 18.

Allowance of bond

**19.—**(1) Where security is desired to be given by payment of money into court, it may be paid in without an order, and stands as security to the plaintiff that the defendant will pay the amount by the judgment in the action adjudged to be recovered or directed to be paid either as a debt or for damages or costs, or will render himself to the custody of the sheriff of the county in which the action has been commenced.

Security by payment into court

(2) After the payment of money into court, a bond or other security mentioned in section 14 may be substituted therefor, and the money paid in shall be repaid upon the production of a certificate of the allowance of the bond or other security signed by the officer allowing it or by the plaintiff's solicitor. R.S.O. 1960, c. 155, s. 19.

Substitution of other security after payment into court

**20.—**(1) The money paid in and the security and all proceedings thereon are subject to the order and control of the court or a judge.

Control of court

Discharge of  
defendant  
on giving  
security

(2) The delivery to the sheriff executing the order for arrest of a certificate of the Accountant of the Supreme Court of the payment of the money into court, or of a certificate of the allowance of the bond or other security signed by the officer allowing it, or by the plaintiff or his solicitor, to the sheriff, entitles the defendant to be discharged out of custody. R.S.O. 1960, c. 155, s. 20.

Time for  
delivery of  
statement  
of claim

**21.** Where a defendant is taken or detained in custody under an order for arrest in default of giving security, the plaintiff, if he has not already delivered his statement of claim, shall deliver it within one month after the arrest, or within the time prescribed by the rules of the Supreme Court, whichever is the earlier date, otherwise the defendant, unless further time is allowed by the court or a judge, is entitled to be discharged out of custody. R.S.O. 1960, c. 155, s. 21.

Order to  
bring body  
into court

**22.—**(1) Where, on the expiration of an order to return an order for arrest, the sheriff returns *cepi corpus* thereon, an order may thereupon issue requiring the sheriff, within six days after the service of the order, to bring the defendant into court, by bringing in the body or by causing security in the action to be given, and, if the sheriff does not obey the order, an attachment may be granted for disobedience thereto.

Where  
sheriff  
goes out of  
office

(2) Where a sheriff, before going out of office, makes an arrest and takes security under the order for arrest and makes a return of *cepi corpus*, the order shall, within the time allowed by law, be directed to him notwithstanding that he may be out of office before the order is issued. R.S.O. 1960, c. 155, s. 22.

Order to set  
aside attach-  
ment or stay  
proceedings  
on bond,  
affidavit of  
merits, etc.

**23.** An order shall not be made for setting aside an attachment regularly obtained against a sheriff for not bringing in the body, or for staying proceedings regularly commenced on the assignment of a bail bond, unless the application for the order, if made on the part of the original defendant, be grounded on an affidavit of merits, or, if made on the part of the sheriff, or a surety, or any officer of the sheriff, unless the application be grounded on an affidavit showing that the application is really and truly made on the part of the sheriff, or surety, or officer of the sheriff, as the case may be, at his own or their own expense, and for his or their indemnity only, and without collusion with the original defendant. R.S.O. 1960, c. 155, s. 23.

Application  
for discharge  
from  
custody by  
defendant

**24.—**(1) A person arrested upon an order for arrest may apply to the court or a judge for an order that he be discharged out of custody, and the court or judge, subject to appeal, may make such order thereon as seems just.

(2) A judge of a county court making an order for arrest, whether in the Supreme Court or in his own court, shall, in respect of such order and the arrest made thereupon, possess all the powers of a judge of the Supreme Court under this section, and may in like manner, on application to him, order the defendant to be discharged out of custody, or make such order therein as to him seems just. Powers of county court judge

(3) Any such order made by a judge of the county court may be discharged or varied by the Court of Appeal. R.S.O. 1960, c. 155, s. 24. Discharge or variance of order

**25.** Where the defendant is described in the order for arrest, or affidavit therefor, by initials, or by wrong name, or without a given name, he shall not for that cause be discharged out of custody or the security be delivered up to be cancelled. R.S.O. 1960, c. 155, s. 25. Misnomer of defendant in order for arrest

**26.**—(1) The sureties may at any time surrender their principal to the sheriff of the county in which the principal is resident of found, and the sheriff shall receive the principal into his custody and give the sureties a certificate under his hand and seal of office of the surrender, for which certificate he is entitled to the sum of \$1. Surrender of debtor by sureties

(2) A judge of the court in which the action is pending, upon proof of due notice to the plaintiff or his solicitor of the surrender, and upon production of the sheriff's certificate thereof, shall order the security to be cancelled, and thereupon all sureties are discharged. Order to cancel security and discharge of sureties

(3) Where a person is surrendered by his sureties to the sheriff of a county other than that in which he resides or carries on business, he is entitled to be transferred to the correctional institution in his own county on prepaying the expenses of his removal, and the sheriff in whose county he was arrested may transfer him accordingly, but, if the sheriff declines to act without an order of the court or a judge, such order may be made on the application of the person arrested, upon notice to the opposite party. R.S.O. 1960, c. 155, s. 26, *amended*. Transfer of person arrested out of his county

**27.**—(1) Where a defendant has been arrested and has given security in the action pursuant to the order for arrest or is imprisoned or detained in custody in default of giving security, unless he has been discharged under section 51, any judgment that the plaintiff may obtain in the action may be enforced by writ of *capias ad satisfaciendum* without an order therefor, but where the defendant is so imprisoned or detained in custody, the plaintiff shall issue such writ within fourteen days after he has become entitled to enter final judgment. When *ca. sa.* may issue without order



When order  
for *ca. sa.*  
necessary

(2) Where the defendant has not been arrested or has been discharged under section 51, if the plaintiff, by the affidavit of himself or of some other person, shows to the satisfaction of a judge of the Supreme Court, or, where the action is in a county court, to a judge of such court, that he has recovered judgment against the defendant for not less than \$100, exclusive of costs, and also such facts and circumstances as satisfy the judge that there is good and probable cause for believing either that the defendant, unless he be forthwith apprehended, is about to quit Ontario with intent to defraud his creditors generally or the plaintiff in particular, or that the defendant has parted with his property or made some secret or fraudulent conveyance thereof in order to prevent its being taken in execution, the judge may order that a writ of *capias ad satisfaciendum* be issued.

*Ca. sa.* when  
returnable

(3) Every writ of *capias ad satisfaciendum* against a debtor who has not been previously arrested or who has not given security pursuant to an order for arrest is returnable immediately after its execution and continues in force for two months from the day of its issue and no longer, but on its expiration another writ may be obtained from a judge's order as provided by subsection 2. R.S.O. 1960, c. 155, s. 27.

*Ca. sa.* to fix  
liability of  
sureties

**28.**—(1) A writ of *capias ad satisfaciendum* issued for the purpose of fixing the liability of the sureties is returnable on a day certain to be named therein not later than fourteen days from the date of the teste of the writ, and shall be delivered to the sheriff of the county in which the action was commenced eight clear days before the return day so named.

Duty of  
sureties

(2) The sureties shall take notice of the delivery of the writ, and it is not necessary for the plaintiff to give them any further or other notice thereof. R.S.O. 1960, c. 155, s. 28.

Postpone-  
ment of  
action on  
security

**29.**—(1) An action shall not be brought upon the bond or other security given in an action pursuant to an order for arrest until after the return of a writ of *capias ad satisfaciendum* for the purpose of fixing the liability of the sureties.

Return to  
writ

(2) To such a writ the sheriff may return *non est inventus*, without taking any steps to arrest the defendant, unless he is already in, or is rendered into, his custody. R.S.O. 1960, c. 155, s. 29.

Limitation  
of liability  
of sureties

**30.** In an action upon the bond, the sureties are only liable for the amount recovered by the plaintiff in the action in which the bond was given and the costs of suit, not exceeding in the whole the amount of the penalty in the bond. R.S.O. 1960, c. 155, s. 30.

Sureties'  
right to  
surrender  
their  
principal

**31.**—(1) Subject to section 26, where the plaintiff brings an action on the bond or other security, the sureties are at liberty to satisfy the bond or security by rendering their principal to the

custody of the sheriff of the county in which the action was brought at any time within eight days next after service of the writ of summons upon them, but not at any later period, and, upon notice thereof being given to the plaintiff or his solicitor, the action shall be stayed and the plaintiff is entitled to the costs of the action up to the date of service of the notice.

(2) Such costs may be taxed upon production of the notice so served without an order, and, if not paid within four days from taxation, the plaintiff may, without an order, sign judgment therefor. R.S.O. 1960, c. 155, s. 31. Costs

**32.** The sheriff, at the request of the person arrested, and upon being prepaid a sum of money sufficient to cover the sheriff's reasonable fees and expenses incident to the delay, shall grant to such person a delay of twenty-four hours after the arrest before committing him to a correctional institution, and shall take him for the twenty-four hours to some safe and convenient house in his county. R.S.O. 1960, c. 155, s. 32, *amended*. Delay of 24 hours before committal

**33.** A person arrested and imprisoned in any other county than that in which he resides or carries on business is entitled to be transferred to the correctional institution in his own county on prepaying the expenses of his removal, and the sheriff in whose county he was arrested may transfer him accordingly, but, if the sheriff declines to act without an order of the court or a judge, such order shall be made on the application of the person arrested, upon notice to the opposite party. R.S.O. 1960, c. 155, s. 33, *amended*. Right of person arrested to be transferred to correctional institution in his own county

**34.—**(1) At any time before the expiration of ten days from the date of the arrest the defendant is entitled to be released from custody upon paying into court, without special order, the amount named in the order for arrest, together with \$40, to answer the costs that have accrued up to the time limited for giving security in the action pursuant to the order for arrest, or upon giving to the sheriff a bail bond with two sufficient sureties in a penal sum double the amount named in the order for arrest, and upon payment of the sheriff's fees, including the cost of the bond. Security from debtors in custody

(2) Moneys so paid into court shall remain in court, subject to order of the court or a judge, as security to the plaintiff that the defendant will cause security in the action to be given pursuant to the order for arrest. R.S.O. 1960, c. 155, s. 34. Custody of money paid

**35.** The sheriff may take from a debtor confined in the correctional institution in his county upon mesne process a bond, with not less than two and not more than four sufficient sureties, to be jointly and severally bound in a penal sum of double the amount for which the debtor is so confined, conditioned that the Security from debtors in custody

debtor will observe and obey all notices or orders of court touching or concerning the debtor, or his appearing to be examined *viva voce*, or his returning and being remanded into close custody, and that upon reasonable notice to them or any of them requiring them so to do they will produce the debtor to the sheriff, and also the debtor will, within thirty days, cause the bond, or the bond that may be substituted for it according to the provisions hereinafter contained, to be allowed by the judge of the county court of the county wherein the debtor is confined, and the allowance to be endorsed thereon by the judge. R.S.O. 1960, c. 155, s. 35, *amended*.

Affidavits of  
sufficiency

**36.** The sheriff may also require each surety, where there are only two, to make oath in writing, to be annexed to the bond, that he is a freeholder or householder in some part of Ontario (stating where), and is worth the sum for which the debtor is in custody (naming it) and \$200 more, over and above what will pay all his debts, or, where there are more than two sureties, he may require each surety to make oath as aforesaid, that he is a freeholder or householder as aforesaid, and is worth one-half the sum for which the debtor is in custody (naming it), and \$200 more, over and above what will pay all his debts. R.S.O. 1960, c. 155, s. 36.

When sheriff  
may allow  
the debtor  
out of close  
custody

**37.** Upon receipt of the bond, accompanied by an affidavit of a subscribing witness of the due execution thereof, and by the sureties' affidavits of sufficiency, if required by the sheriff, the sheriff may permit the debtor to go out of close custody, and, so long as the debtor in all respects observes the conditions of the bond, the sheriff is not liable to the party at whose suit the debtor is confined in any action for the escape of the debtor from a correctional institution. R.S.O. 1960, c. 155, s. 37, *amended*.

Application  
for allow-  
ance of bond

**38.**—(1) The debtor may apply for the allowance of the bond upon four clear days notice in writing to the plaintiff or his solicitor, who at the time of the application may object to the sufficiency of the sureties, and if the judge refuses to allow the bond, the debtor may cause another bond, made to the sheriff in the same terms and under the same conditions, to be executed without further application to the sheriff, and may apply in like manner and upon like notice for the allowance thereof, and the bond, if allowed and endorsed as aforesaid, shall be substituted for and have the like effect in all respects as the bond first given to the sheriff would have had upon the allowance thereof and the like remedies may be had thereon, and the first given bond thereupon becomes void.

Production  
of bond  
before judge

(2) The sheriff shall, upon reasonable notice given by the debtor, cause the bond to be produced before the judge. R.S.O. 1960, c. 155, s. 38.

**39.** Upon the allowance being so endorsed, the sheriff is discharged from all responsibility respecting the debtor, unless he is again committed to the close custody of the sheriff in due form of law. R.S.O. 1960, c. 155, s. 39.

Sheriff's discharge from responsibility

**40.** In lieu of giving the bond provided for by section 35, the debtor or any person on his behalf may deposit with the sheriff the amount for which he is arrested, and, where the person is held under an order for arrest, the further sum of \$40, and such deposit stands as security in place and for the purposes of the bond provided for by sections 34 and 35, and the money so deposited is subject to the order of a judge of the court in which the order of arrest was made, but such deposit is repayable to the person making it upon the sheriff being furnished with a certificate of the judge or officer who allows it, that the bond provided for by sections 34 and 35 has been perfected and allowed. R.S.O. 1960, c. 155, s. 40.

Deposit in lieu of bail on arrest under civil process

**41.—**(1) Where the sheriff has good reason to believe that a surety after entering into the bond has become insufficient to pay the amount sworn to in his affidavit of sufficiency, the sheriff may again arrest the debtor and detain him in close custody, and such arrest discharges the sureties from all liability on the bond.

Retaking the debtor if sureties become insufficient

(2) The sureties of the debtor may set up the arrest and detention as a defence to an action brought against them upon the bond entered into by them, and the defence, if sustained in proof, wholly discharges them.

Effect of such arrest on liability of sureties

(3) The debtor may again be allowed to go out of close custody on giving to the sheriff a new bond with sureties as aforesaid. R.S.O. 1960, c. 155, s. 41.

New bond

**42.—**(1) Where default is made in compliance with the conditions of a bail bond to the sheriff, the sheriff shall, upon the request and at the cost of the plaintiff, assign the bond to him, and he may bring an action thereon in his own name.

Assignment of bail bond

(2) Upon executing the assignment, the sheriff is thenceforth discharged from all liability on account of the debtor or his safe custody.

Discharge of sheriff's liability

(3) Where the bond is taken under section 34, if the plaintiff does not take an assignment of it within five days after default, the sheriff may rearrest the defendant in any county and bring him into his own county and detain him in custody until he has given and obtained the allowance of security in the action pursuant to the order for arrest. R.S.O. 1960, c. 155, s. 42.

Rearrest in default of security in action

**43.** Notwithstanding the default, the defendant may, at any time before judgment in an action brought upon the bail bond to the sheriff or before the expiration of any order to bring in the body, give security in the original action pursuant to the order for arrest. R.S.O. 1960, c. 155, s. 43.

Defendant's right to give security preserved



Stay of  
action on  
bail bond

**44.** The plaintiff is not at liberty to proceed upon the bail bond to the sheriff pending an order to bring in the body of the defendant. R.S.O. 1960, c. 155, s. 44.

Power of  
court to  
relieve

**45.** Where an action is brought upon the bail bond to the sheriff, the court or a judge may upon application in such action give such relief to the plaintiff and defendant in the original action and to the sureties in the bail bond as is just and reasonable, and the order made on any such application has the effect of a defeasance to the bail bond. R.S.O. 1960, c. 155, s. 45.

Surrender  
by sureties

**46.**—(1) The sureties of a debtor may surrender him into the custody of the sheriff at the correctional institution, and the sheriff or superintendent shall there receive him into custody, and the sureties may set up the surrender, or the offer to surrender and the refusal of the sheriff or superintendent to receive the debtor into custody at the correctional institution, as a defence to any action brought on the bond for a breach of the condition happening after such surrender or tender and refusal, and the defence, if sustained in proof, discharges them.

New bond

(2) The debtor may again be allowed to go out of close custody on giving to the sheriff a new bond with sureties as aforesaid. R.S.O. 1960, c. 155, s. 46, *amended*.

Debtor on  
bail liable  
to be  
examined or  
recommitted

**47.**—(1) The party at whose suit a debtor has been confined in execution may, at any time while the debtor is at large upon bail, apply to the court or a judge for an order for the examination *viva voce* on oath of the debtor touching the matters mentioned in section 50, and, if the debtor does not submit himself to be examined pursuant to the order or refuses to make full answer in respect of the matters touching which he is examined to the satisfaction of the court or a judge, the court or judge may order the debtor to be committed to close custody, and the sheriff, on due notice of the order, shall forthwith take the debtor and commit him to close custody until he obtains an order of the court or a judge for again allowing him to go out of close custody, on giving the necessary bond as aforesaid, or until he is otherwise discharged in due course of law.

Order for  
discharge

(2) An order for the discharge of the debtor may be made on his showing that he has submitted himself to be examined and made full answer as aforesaid and has thereafter given to the plaintiff or his solicitors five days notice of his intention to apply. R.S.O. 1960, c. 155, s. 47.

Sheriff's  
liability for  
escape

**48.** If a debtor in execution escapes out of legal custody, the sheriff, bailiff, or other person having the custody of the debtor, is liable only to an action for damages sustained by the person at whose suit the debtor was taken or imprisoned, and is not liable to

any other action in consequence of the escape. R.S.O. 1960, c. 155, s. 48.

**49.** A debtor in close custody in execution or on mesne process and a debtor arrested under a writ of *capias ad satisfaciendum*, though he is not in close custody but has given bail, may, after giving to the person at whose instance he is in close custody or has been so arrested ten days notice in writing of his intention to do so, apply to the court or a judge to be discharged. R.S.O. 1960, c. 155, s. 49.

Discharge of debtor from custody

**50.** Where the notice is given by a debtor in close custody in execution or by a debtor who has been arrested under a writ of *capias ad satisfaciendum* and has given bail, the person at whose instance he is in close custody or has been so arrested may apply to the court or a judge for an order that the debtor be examined *viva voce* on oath for the purpose of discovering any property or effects that he is possessed of or entitled to, or that are in the possession or under the control of any other person for the use or benefit of the debtor, or that the debtor having been in possession of may have fraudulently disposed of for the purpose of hindering, delaying, defrauding or defeating his creditors, and touching the debtor's estate and effects and the circumstances under which he contracted the debt or incurred the liability that was the subject of the action in which judgment has been recovered against him, and as to the means and expectations he then had, and as to the property and means he still has, and as to the disposal he may have made of any of his property. R.S.O. 1960, c. 155, s. 50.

Examination of debtor as to his property, etc.

**51.—(1)** Upon an application under section 49 and upon the debtor making oath that he is not worth \$20, exclusive of his goods and chattels exempt from seizure under execution, and, in the case of a debtor in execution, that he has submitted himself to be examined pursuant to any order that may have been made for his examination, or that no order for his examination has been served, and where such examination has been had, if the matter thereof is considered satisfactory, and, in the case of a debtor confined in close custody on mesne process, that he does not believe the demand of the plaintiff to be just and for that reason and no other resists payment of it and refuses to suffer judgment to be entered against him for the sum sworn to, and if the cross-examination, if any, of the debtor upon his affidavit is considered satisfactory, the debtor shall be discharged from custody, but the discharge is not a release or satisfaction of the judgment or of the claim of the plaintiff and does not deprive the plaintiff of any remedy against the debtor or his property.

Application of debtor for discharge

**(2)** A debtor in close custody upon mesne process may be cross-examined upon his affidavit according to the practice of the court as to cross-examination upon an affidavit on a motion. R.S.O. 1960, c. 155, s. 51.

Cross-examination of debtor on affidavit

Discharge may be on condition of assignment by debtor

**52.** In the case of a debtor in execution, it may be made a condition of his discharge that he first, by assignment or conveyance to be approved of by the court or a judge, assigns and conveys to an assignee for the benefit of his creditors any right or interest he may have in and to any property real or personal, credits or effects, other than goods and chattels exempt from seizure under execution, and, in the case of a debtor in close custody on mesne process, it may be made a condition of his discharge that he first suffer the plaintiff to have judgment against him for the sum sworn to or such part thereof as the court or judge considers just. R.S.O. 1960, c. 155, s. 52.

Remand into custody in cases of fraud, etc.

**53.** In the case of a debtor in execution, if it appears that the debt for which he is in close custody or has been arrested was contracted by fraud, or breach of trust, or under false pretences, or that he wilfully contracted the debt without having had at the time a reasonable expectation of being able to pay or discharge it and with intent to defraud, the court or judge may order the debtor to be remanded into close custody for any period not exceeding twelve months and to be then discharged. R.S.O. 1960, c. 155, s. 53.

Debtor's liability to be retaken in execution

**54.** Where the discharge has been unduly or fraudulently obtained by a false allegation of circumstances that, if true, would have entitled the debtor to be discharged, he shall, upon the same being made to appear to the satisfaction of the court or a judge, be liable to be again taken in execution or remanded to his former custody by order of the court or judge. R.S.O. 1960, c. 155, s. 54.

Production of debtor for examination

**55.** The court or judge making an order for the examination of a debtor under this Act may direct the sheriff or superintendent having the custody of the debtor to bring him before the court or judge or before some person to be named in the order for the purpose of being examined, and the sheriff or superintendent shall take the debtor before the court or judge or the person so named for examination in the same manner as if the sheriff or superintendent were acting in obedience to a writ of *habeas corpus ad testificandum*. R.S.O. 1960, c. 155, s. 55, *amended*.

Discharge by consent of plaintiff

**56.** A written order under the hand of the judgment creditor or of the solicitor by whom a writ of *capias ad satisfaciendum* has been issued shall justify the sheriff, superintendent or officer in whose custody the debtor is under the writ, in discharging him, unless, where the order is given by the solicitor, the party for whom such solicitor professes to act has given written notice to the contrary to the sheriff, superintendent or officer, but such discharge is not a satisfaction of the debt and nothing herein contained justifies the solicitor in giving an order for discharge without the consent of his client. R.S.O. 1960, c. 155, s. 56, *amended*.

**57.** Neither the taking of a debtor in execution under a writ of *capias ad satisfaciendum* nor his imprisonment thereunder or under this Act nor his discharge from custody by the voluntary action of his creditor or under the powers conferred by this Act operates as a satisfaction or extinguishment of the debt or deprives the creditor of the right to take out execution or other process against the property of the debtor or to take any other proceeding against him in the same manner as if the debtor had not been taken in execution or discharged out of custody. R.S.O. 1960, c. 155, s. 57.

When  
plaintiff  
may issue  
other writs

**58.** *The Judicature Act* and the rules of court apply to this Act. R.S.O. 1960, c. 155, s. 58.

Application  
R.S.O. 1970,  
c. 228

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## CHAPTER 184

# The Freshwater Fish Marketing Act (Ontario)

## INTERPRETATION

**1.** In this Act,Interpre-  
tation

- (a) “Corporation” means the Freshwater Fish Marketing Corporation established under the Federal Act;
- (b) “designated area” means the part or parts of Ontario designated by regulations made under section 2;
- (c) “Federal Act” means the *Freshwater Fish Marketing Act* (Canada), as amended or re-enacted from time to time; 1969, c. . . . (Can.)
- (d) “fish” means round, dressed or filleted fish of any species enumerated in the Schedule to the Federal Act, whether fresh or frozen and whether packaged or unpackaged, that are fished for commercial purposes in the designated area, and includes parts of any such fish;
- (e) “fisherman” means a person licensed pursuant to the *Fisheries Act* (Canada) or the regulations thereunder to fish for commercial purposes in the designated area, and includes any person acting on behalf of and representing any two or more persons so licensed; R.S.C. 1952, c. 119
- (f) “inspector” means a person designated by the Minister as an inspector under this Act, or a person declared to be an inspector *ex officio* under this Act;
- (g) “Minister” means the Minister of Lands and Forests;
- (h) “regulations” means the regulations made under this Act. 1968-69, c. 40, s. 1.

## POWERS OF THE CORPORATION

**2.**—(1) The Lieutenant Governor in Council may make regulations designating the Corporation as the body to control the selling and buying of fish in such part or parts of Ontario as may be designated in the regulations. Designation of Corporation

(2) Where a regulation has been made under subsection 1, the Lieutenant Governor in Council may recommend the appointment of a director of the Corporation. 1968-69, c. 40, s. 2. Director

Corporation  
to buy  
all fish  
offered

**3.** Where a regulation has been made under subsection 1 of section 2, all fish lawfully fished by a fisherman and offered by him for sale to the Corporation for disposal in intraprovincial trade shall be bought by the Corporation from the fisherman upon such terms and conditions and for such price as may be agreed upon by the Corporation and the fisherman subject to any applicable scheme for payment established and operated by the Corporation pursuant to section 24 of the Federal Act. 1968-69, c. 40, s. 3.

#### INSPECTORS

Designation  
of  
inspectors

**4.—(1)** The Minister may designate an inspector or inspectors whose duties are to carry out the provisions of this Act and the regulations.

Idem

(2) The Lieutenant Governor in Council may declare that inspectors designated under the Federal Act or appointed under the *Fish Inspection Act* (Canada) are inspectors *ex officio* under this Act. 1968-69, c. 40, s. 4.

R.S.C. 1952,  
c. 118

Powers of  
inspector

**5.—(1)** An inspector may at any reasonable time,

- (a) enter any place or premises that he reasonably believes is being used to store, pack, process or prepare fish for market or shipment or any vehicle, trailer, vessel, railway car or aircraft that he reasonably believes is being used to ship or convey fish for market;
- (b) open any container found therein or examine anything found therein that he reasonably believes contains any such fish, and take samples thereof; and
- (c) require any person to produce for inspection or for the purpose of obtaining copies thereof or extracts therefrom, any books, shipping bills, bills of lading, invoices or other documents or papers concerning any matter relevant to the administration of this Act.

Certificate  
of  
appoint-  
ment

(2) An inspector shall be furnished with a certificate of his designation or appointment as an inspector and on entering any place, premises or conveyance referred to in subsection 1 shall, if so required, produce the certificate to the person in charge thereof.

Assistance  
to  
inspector

(3) The owner or person in charge of any place, premises or conveyance referred to in subsection 1 and every person found therein shall give an inspector all reasonable assistance in his power to enable the inspector to carry out his duties and powers under this Act and shall furnish him with such information with respect to the administration of this Act as he may reasonably require. 1968-69, c. 40, s. 5.

**6.**—(1) Where an inspector believes on reasonable grounds Seizure that any provision of this Act has been contravened, he may seize and detain the fish by means of or in relation to which he reasonably believes the contravention was committed.

(2) Any fish seized and detained pursuant to subsection 1 shall Detention not be detained after,

(a) in the opinion of an inspector, the provisions of this Act have been complied with; or

(b) the expiration of ninety days from the day of seizure,

unless before that time proceedings have been instituted in respect of the contravention, in which event the fish may be detained until the proceedings are finally concluded.

(3) Where a person has been convicted of a contravention of Forfeiture any provision of this Act, any fish by means of or in relation to which the offence was committed is, upon the conviction, in addition to any penalty imposed, forfeited to Her Majesty if such forfeiture is directed by the court. 1968-69, c. 40, s. 6.

**7.**—(1) No person shall obstruct or hinder an inspector in Obstruction of inspectors carrying out his duties or exercising his powers under this Act or the regulations.

(2) No person shall make a false or misleading statement either False statements orally or in writing to an inspector engaged in carrying out his duties or exercising his powers under this Act or the regulations. 1968-69, c. 40, s. 7.

#### REGULATION OF INTRAPROVINCIAL TRADE

**8.** Except as otherwise provided in the regulations or except in Intra-provincial trade in fish accordance with the terms and conditions set forth in any licence that may be issued by the Corporation in that behalf, no person other than the Corporation or an agent of the Corporation shall sell or buy, or agree to sell or buy, fish. 1968-69, c. 40, s. 8.

#### PARTICIPATING AGREEMENT

**9.** The Minister, with the approval of the Lieutenant Governor in Council, may on behalf of the Government of Ontario enter Agreement into an agreement with the Government of Canada providing for,

(a) the sharing by Ontario with the Government of Canada of initial operating and establishment expenses of the Corporation and of any losses incurred as a result of,

(i) the guarantee of repayment of loans and interest thereon, made by any bank to the Corporation, and

(ii) loans made by Canada to the Corporation,

under subsection 1 of section 17 of the Federal Act.



- (b) the performance by the Corporation, on behalf of Ontario, of functions relating to intraprovincial trade in fish;
- (c) the undertaking by Ontario of arrangements for the payment, to the owner of any plant or equipment used in storing, processing or otherwise preparing fish for market, of compensation for any such plant or equipment that will or may be rendered redundant by reason of any operations authorized to be carried out by the Corporation; and
- (d) such other matters as may be agreed upon by the Minister and the Government of Canada. 1968-69, c. 40, s. 9.

## OFFENCES AND PENALTIES

Offences      **10.** Every person who, or whose employee or agent, contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000. 1968-69, c. 40, s. 10.

Offence by agent or employee      **11.** In any prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission. 1968-69, c. 40, s. 11.

Time limit      **12.** Any proceedings by way of summary conviction in respect of an offence against this Act or the regulations may be instituted at any time within one year after the time when the subject matter of the proceedings arose. 1968-69, c. 40, s. 12.

## REGULATIONS

Regulations      **13.—(1)** The Lieutenant Governor in Council may make regulations,

- (a) requiring licences to send, convey or carry fish in Ontario;
- (b) governing the issue and form of licences and prescribing the terms and conditions thereof;
- (c) exempting from the application of all or any of the provisions of this Act, either conditionally or unconditionally and either in general terms or for a specified period, any species of fish, any part of the designated area, any transaction, person or class of transactions or persons;

- (d) respecting the detention of fish seized under this Act and for preserving or safeguarding the fish so detained;
- (e) respecting the disposition of fish forfeited under this Act;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Any regulation made under this Act may be limited as to time and place. 1968-69, c. 40, s. 13.

Regulation  
may be  
limited

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## CHAPTER 185

## The Frustrated Contracts Act

**1.** In this Act,Interpre-  
tation

- (a) “contract” includes a contract to which the Crown is a party;
- (b) “court” means the court or arbitrator by or before whom a matter falls to be determined;
- (c) “discharged” means relieved from further performance of the contract. R.S.O. 1960, c. 157, s. 1.

**2.—**(1) This Act applies to any contract that is governed by the law of Ontario and that has become impossible of performance or been otherwise frustrated and the parties to which for that reason have been discharged.

Application  
of Act**(2)** This Act does not apply,

Exceptions

- (a) to a charterparty or a contract for the carriage of goods by sea, except a time charterparty or a charterparty by way of demise;
- (b) to a contract of insurance; or
- (c) to a contract for the sale of specific goods where the goods, without the knowledge of the seller, have perished at the time the contract was made, or where the goods, without any fault on the part of the seller or buyer, perished before the risk passed to the buyer. R.S.O. 1960, c. 157, s. 2, *amended*.

**3.—**(1) The sums paid or payable to a party in pursuance of a contract before the parties were discharged,

Adjustment  
of rights and  
liabilities

- (a) in the case of sums paid, are recoverable from him as money received by him for the use of the party by whom the sums were paid; and
- (b) in the case of sums payable, cease to be payable.

(2) If, before the parties were discharged, the party to whom the sums were paid or payable incurred expenses in connection with the performance of the contract, the court, if it considers it just to do so having regard to all the circumstances, may allow him to retain or to recover, as the case may be, the whole or any part of the sums paid or payable not exceeding the amount of the expenses, and, without restricting the generality of the foregoing,

Expenses



the court, in estimating the amount of the expenses, may include such sum as appears to be reasonable in respect of overhead expenses and in respect of any work or services performed personally by the party incurring the expenses.

**Benefits** (3) If, before the parties were discharged, any of them has, by reason of anything done by any other party in connection with the performance of the contract, obtained a valuable benefit other than a payment of money, the court, if it considers it just to do so having regard to all the circumstances, may allow the other party to recover from the party benefited the whole or any part of the value of the benefit.

**Assumed obligations** (4) Where a party has assumed an obligation under the contract in consideration of the conferring of a benefit by any other party to the contract upon any other person, whether a party to the contract or not, the court, if it considers it just to do so having regard to all the circumstances, may, for the purposes of subsection 3, treat any benefit so conferred as a benefit obtained by the party who has assumed the obligation.

**Insurance** (5) In considering whether any sum ought to be recovered or retained under this section by a party to the contract, the court shall not take into account any sum that, by reason of the circumstances giving rise to the frustration of the contract, has become payable to that party under any contract of insurance unless there was an obligation to insure imposed by an express term of the frustrated contract or by or under any enactment.

**Special contractual provisions** (6) Where the contract contains a provision that upon the true construction of the contract is intended to have effect in the event of circumstances that operate, or but for the provision would operate, to frustrate the contract, or is intended to have effect whether such circumstances arise or not, the court shall give effect to the provision and shall give effect to this section only to such extent, if any, as appears to the court to be consistent with the provision.

**Where contract severable** (7) Where it appears to the court that a part of the contract can be severed properly from the remainder of the contract, being a part wholly performed before the parties were discharged, or so performed except for the payment in respect of that part of the contract of sums that are or can be ascertained under the contract, the court shall treat that part of the contract as if it were a separate contract that had not been frustrated and shall treat this section as applicable only to the remainder of the contract. R.S.O. 1960, c. 157, s. 3.

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## CHAPTER 186

## The Game and Fish Act

**I.** In this Act,Interpre-  
tation

1. “closed season” means a period that is not an open season;
2. “deer” includes wapiti (commonly called elk);
3. “Department” means the Department of Lands and Forests;
4. “dog” means any of the species *Canis familiaris* Linnaeus;
5. “domestic animals and domestic birds” includes any non-native species kept in captivity, except pheasants, but does not include native species kept in captivity or non-native species present in the wild state;
6. “farmer” means a person whose chief occupation is farming and,
  - i. who is living upon and tilling his own land, or land to the possession of which he is for the time being entitled, or
  - ii. who is a *bona fide* settler engaged in clearing land for the purpose of bringing it to a state of cultivation;
7. “ferret” means any of the domesticated forms of the old world polecat (*Putorius putorius*) used for hunting;
8. “fire-arm” includes an air or pellet gun and a longbow and a cross-bow;
9. “fishing preserve” means an artificial or man-made body of water lying wholly within the boundaries of privately-owned land, containing water from surface run-off, natural springs, ground water or water diverted or pumped from a stream or lake but not being composed of natural streams, ponds or lakes or water impounded by the damming of natural streams and in which fish propagated under a licence or fish taken under a commercial fishing licence are released for angling purposes;
10. “fur-bearing animal” means a beaver, fisher, fox, lynx, marten, mink, muskrat, otter, raccoon, skunk, red

squirrel, weasel, wolverine or any other animal that the Lieutenant Governor in Council declares to be a fur-bearing animal, and includes any part of such animal;

11. "game" means a game animal, game bird or fur-bearing animal, and includes any part of such animal;
12. "game animal" means any animal, except a fur-bearing animal, protected by this Act, and includes any part of such animal;
13. "game bird" means any bird protected by this Act or the *Migratory Birds Convention Act* (Canada), and includes any part of such bird;
14. "game bird hunting preserve" means any area in which pheasants or other game birds propagated under a licence are released for hunting purposes;
15. "holder of a licence" means the person named in the licence;
16. "hunting" includes chasing, pursuing, following after or on the trail of, searching for, shooting, shooting at, stalking or lying in wait for, worrying, molesting, taking or destroying any animal or bird, whether or not the animal or bird be then or subsequently captured, injured or killed, and "hunt", "hunted" and "hunter" have corresponding meanings;
17. "licence" means an instrument issued under this Act conferring upon the holder the privilege of doing the things set forth in it, subject to the conditions, limitations and restrictions contained in it and in this Act and in the regulations, but no licence is or shall operate as a lease;
18. "Minister" means the Minister of Lands and Forests;
19. "non-resident" means a person who has not actually resided in Ontario for a period of at least seven months during the twelve months immediately preceding the time that his residence becomes material under this Act;
20. "officer" means a Conservation Officer or a Deputy Conservation Officer and includes a member of the Royal Canadian Mounted Police Force or the Ontario Provincial Police Force or any other person authorized to enforce this Act;

R.S.C. 1952,  
c. 179

R.S.C. 1952,  
c. 119

21. "Ontario Fishery Regulations" means the Ontario Fishery Regulations made under the *Fisheries Act* (Canada);

22. "open season" means a specified period during which specified game or fish may be taken;
23. "owner", with reference to land, includes any person who is the owner of an interest in land entitling him to the possession of it, but does not include the holder of a timber licence;
24. "pelt" means the untanned skin of a fur-bearing animal;
25. "pheasant" means any of the species *Phasianus colchicus* Linnaeus;
26. "rabbit" includes cottontail rabbit, varying hare and European hare;
27. "regulations" means the regulations made under this Act;
28. "resident" means a person who has actually resided in Ontario for a period of at least seven months during the twelve months immediately preceding the time that his residence becomes material under this Act;
29. "snare" means a device for the taking of animals whereby they are caught in a noose, and "snaring" has a corresponding meaning;
30. "trap" means a spring trap, gin, deadfall, snare, box or net used to capture game, and "trapping" has a corresponding meaning;
31. "vehicle" means a vehicle that is drawn, propelled or driven by any kind of power, including muscular power, and includes the rolling stock of a railway;
32. "vessel" means a boat or ship, and includes a skiff, canoe, punt and raft;
33. "wolf" means any of the species *Canis lupus* L. or *Canis latrans* Say. 1961-62, c. 48, s. 1; 1964, c. 34, s. 1; 1970, c. 58, s. 1.

#### APPLICATION

### 2. This Act does not apply,

- (a) to domestic animals and domestic birds, except dogs;
- (b) to a person taking or destroying a hawk, kingfisher or owl or any animal, other than a caribou, deer or moose, on his own lands in defence or preservation of his property by any means at any time; or
- (c) to a person destroying a beaver dam in defence or preservation of his property. 1961-62, c. 48, s. 2.

Application  
of Act



## ADMINISTRATION

Purpose of  
the Act

**3.** The purpose of this Act is to provide for the management, perpetuation and rehabilitation of the wildlife resources in Ontario, and to establish and maintain a maximum wildlife population consistent with all other proper uses of lands and waters. 1961-62, c. 48, s. 3.

Administra-  
tion of Act

**4.** The administration of this Act is under the control and direction of the Minister. 1961-62, c. 48, s. 4.

Revenue

**5.** Except as otherwise provided by this Act, all rentals, licence fees, fines, penalties, proceeds of the sale of game and fish and of all property forfeited, and other receipts, fees and revenues under this Act or the regulations, or under any licence or instrument authorized by or under this Act, shall be paid to the Treasurer of Ontario. 1961-62, c. 48, s. 5.

Power to  
acquire  
lands under  
R.S.O. 1970,  
c. 393

**6.—(1)** Land may be acquired under *The Public Works Act* for the purposes of management, perpetuation and rehabilitation of the wildlife resources in Ontario.

Idem

**(2)** The Minister on behalf of Her Majesty in right of Ontario may receive and take from any person by grant, gift, devise, bequest or otherwise any property, real or personal, or any interest therein for the purposes mentioned in subsection 1. 1961-62, c. 48, s. 6.

Management  
agreements

**(3)** The Minister or the Minister of Public Works may enter into agreements with the owners of lands respecting the management of the lands for the purposes mentioned in subsection 1, and such agreements may transfer to Her Majesty in right of Ontario the hunting and fishing rights in the lands and may authorize Her Majesty to carry out habitat improvement work, protective measures, stocking programs, fencing, erection of signs and any other management practice.

Registra-  
tion of  
agreements

**(4)** An agreement entered into under subsection 3 may be registered in the proper registry or land titles office, and thereupon such agreement is binding upon every subsequent owner and mortgagee of the lands during the term of the agreement. 1967, c. 30, s. 1.

Appoint-  
ment of  
conserva-  
tion officers

**7.—(1)** The Minister may appoint conservation officers for carrying out this Act and the regulations.

Deputy con-  
servation  
officers

**(2)** The Minister may appoint deputy conservation officers in and for any part of Ontario to serve without remuneration.

Termination  
of appoint-  
ments

**(3)** Every appointment under subsection 2 shall be for the period stated in the appointment. 1961-62, c. 48, s. 7.

**8.**—(1) An officer may, without a search warrant,

Search of  
vehicles,  
vessels, etc.

- (a) stop, enter and search any aircraft, vehicle or vessel;
- (b) enter and search any fishing, hunting, mining, lumber or construction camp, or any office of any common carrier, or any premises where pelts are bought or sold; and
- (c) open and inspect any trunk, box, bag, parcel or receptacle,

if he has reasonable grounds to believe that any of them contains any game or fish killed, taken, shipped or had in possession in contravention of this Act or the regulations. 1961-62, c. 48, s. 8 (1); 1966, c. 60, s. 1.

(2) An officer who has reasonable grounds to believe that it is necessary to enter any building, which by this Act he is not authorized to enter without a search warrant, shall make a deposition before a justice of the peace, and, where the justice is satisfied that there is reasonable ground for believing that there is in the building,

Search  
warrant

- (a) anything upon or in respect of which an offence against this Act or the regulations has been or is suspected to have been committed; or
- (b) anything that there is reasonable ground to believe will afford evidence as to the commission of any such offence,

he may at any time issue a search warrant.

(3) An officer may use as much force as is necessary for him to exercise the powers conferred upon him by subsection 1 or in the execution of a search warrant issued under subsection 2. 1961-62, c. 48, s. 8 (2, 3).

Use of  
force

**9.** An officer may inspect any fire-arm in a locality in which game may be found or on any highway or road leading thereto or on waters adjacent thereto. 1966, c. 60, s. 2.

Inspection of  
fire-arms

**10.** An officer on view may arrest without process any person found committing a contravention of this Act or of the regulations, in which case he shall bring him with reasonable diligence before a competent court to be dealt with according to law. 1961-62, c. 48, s. 9.

Arrest on  
view

**11.** An officer in the discharge of his duties and any person by him accompanied or authorized for the purpose may enter upon and pass through or over private lands without being liable for trespass. 1961-62, c. 48, s. 10.

Entry upon  
private  
property

Authority  
to prosecute

**12.**—(1) An officer shall investigate all contraventions of this Act and the regulations brought to his notice and may prosecute any person who he has reasonable cause to believe is guilty of an offence against this Act. 1961-62, c. 48, s. 11.

Where  
subs. 1 not  
to apply

(2) Subsection 1 does not apply to contraventions of subsection 1 of section 18. 1962-63, c. 48, s. 2.

Obstructing  
officers

**13.** No person shall obstruct, hinder or delay or interfere with an officer in the discharge of his duty by violence or threats or by giving false information, or in any other manner. 1961-62, c. 48, s. 12.

Authority  
to stop  
vehicles,  
vessels

**14.** An officer may stop a vehicle or vessel for the purpose of,

- (a) determining whether the occupants of the vehicle or vessel have been hunting or fishing; or
- (b) obtaining information as to the number and species of game or fish taken. 1961-62, c. 48, s. 13.

Power of  
inspection of  
documents  
by officers

**15.** No person shall refuse to allow an officer to examine any book, invoice or document containing any entry or memorandum relating to game or fish that the officer suspects of being taken or possessed in contravention of this Act or the regulations, and he shall afford every reasonable facility for the examination, and, upon refusal, the officer may, without a search warrant, break any lock or fastening that may be necessary in order to conduct the examination and remove any such book, invoice or document to safekeeping. 1961-62, c. 48, s. 14; 1966, c. 60, s. 3.

Seizure of  
game and  
other  
property

**16.**—(1) Any game or fish suspected of having been taken or possessed and any thing, except an aircraft, vehicle or vessel, suspected of having been used in contravention of this Act or the regulations shall be seized. 1961-62, c. 48, s. 15 (1); 1966, c. 60, s. 4 (1).

Seizure of  
aircraft, etc.

(2) An aircraft, vehicle or vessel,

- (a) suspected of having been used; or
- (b) used in transporting game or fish suspected of having been taken or possessed,

in contravention of this Act or the regulations may be seized. 1961-62, c. 48, s. 15 (2); 1966, c. 60, s. 4 (2).

Forfeiture  
of property  
seized

(3) Upon conviction, any property seized under this section is forfeited to the Crown in right of Ontario as represented by the Minister. 1961-62, c. 48, s. 15 (3).

#### GENERAL PROVISIONS

Hunting for  
hire pro-  
hibited

**17.** No person shall for hire, gain or reward, or hope thereof, hunt game, or employ, hire or, for valuable consideration, induce any other person to hunt game. 1961-62, c. 48, s. 16.

**18.**—(1) No person shall hunt or fish or with any gun or sporting implement, fishing rod or tackle in his possession go upon any enclosed or unenclosed land or water after he has had oral or written notice not to hunt or fish thereon by the owner or by a person authorized by the owner to give such notice.

Entry after notice

(2) No person shall,

(a) without authority give or cause to be given the notice mentioned in subsection 1; or

Wrongful erection or destruction of notices

(b) tear down, remove, deface, damage or interfere with any notice put up, posted or placed pursuant to subsection 1.

(3) No person shall, for the purpose of hunting or fishing, enter into or allow a dog to enter into growing or standing grain or any other crop, whether of one kind or not, without the permission of the owner or a person authorized by the owner to give such permission.

Growing crops

(4) No person in a party of more than twelve persons shall hunt or with any gun or sporting implement enter upon any enclosed or unenclosed land in a county without the permission of the owner or a person authorized by the owner to give such permission.

Hunting in parties exceeding twelve

(5) No person shall without authority enter or attempt to enter upon lands owned by the Crown that are used for the purpose of propagating or retaining game or fish.

Entry on Crown lands used for propagating or retaining game or fish

(6) No person shall tear down, remove, damage, deface or interfere with any notice or sign of the Department put up, posted or placed for the purposes of this Act.

Destruction of notices or signs

(7) Nothing in this section limits or in any way affects the remedy at common law of an owner for trespass.

Common law remedy for trespass

(8) Every person found contravening any provision of this section may be apprehended without warrant by a constable or by the owner of the land on which the contravention takes place, or by the servant of or by any person authorized by such owner, and be taken forthwith to a justice of the peace to be dealt with according to law. 1961-62, c. 48, s. 17.

Right of apprehension

**19.** Every person is guilty of the offence of hunting carelessly who, being in possession of a fire-arm for the purpose of hunting, discharges or causes to be discharged or handles such fire-arm without due care and attention or without reasonable consideration for persons or property and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than one year, or to both. 1961-62, c. 48, s. 18; 1964, c. 34, s. 2.

Offence of hunting carelessly

**20.**—(1) Except as provided in the regulations, no person shall use an aircraft while hunting. 1961-62, c. 48, s. 19.

Use of aircraft



Use of  
vehicles  
and vessels

(2) No person shall use a vehicle or vessel for the purpose of chasing, pursuing, worrying, molesting, killing, injuring or destroying any animal or bird.

Exception

(3) Subsection 2 does not apply to a farmer in the defence or preservation of his property or to a party of farmers in the defence or preservation of the property of one or more of them. 1970, c. 58, s. 2.

Fire-arms  
in game  
areas

**21.**—(1) No person, while engaged in hunting or trapping game or while going to or returning from a hunting camp or locality in which game may be found, shall,

- (a) have a loaded fire-arm in or on, or discharge a loaded fire-arm from, an aircraft or a vehicle; or
- (b) in any county designated in the regulations, discharge a fire-arm from or across a highway, road, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, used or intended for use by the public for the passage of vehicles; or
- (c) in any part of Ontario that is not in a county designated in the regulations, discharge a fire-arm from or across the travelled portion of a highway, road, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, used or intended for use by the public for the passage of vehicles. 1966, c. 60, s. 5.

Fire-arms  
in power-  
boats  
R.S.C. 1952,  
c. 179

(2) Except as otherwise provided in the *Migratory Birds Convention Act* (Canada) or the regulations made under that Act, no person shall have a loaded fire-arm in or on or discharge the same from a power-boat. 1961-62, c. 48, s. 20 (2); 1964, c. 34, s. 3 (3).

Interpre-  
tation

(3) A fire-arm having an unfired shell or cartridge in the chamber or in a magazine attached to the fire-arm shall be deemed to be loaded within the meaning of this section. 1961-62, c. 48, s. 20 (3).

Hunting  
wolves

**22.** Notwithstanding section 20 and clause *a* of subsection 1 of section 21, wolves may be hunted from an aircraft or a vehicle under the authority of a licence issued by the Minister and subject to such terms and conditions as are prescribed in the regulations. 1961-62, c. 48, s. 21, *amended*.

Prohibition  
as to guns

**23.**—(1) In a locality that game usually inhabits or in which game is usually found, no person shall have a fire-arm in his possession, unless it is unloaded and encased, between one-half hour after sunset and one-half hour before sunrise of any day. 1961-62, c. 48, s. 22; 1964, c. 34, s. 4.

Night  
hunting

(2) No person shall hunt any animal or bird between one-half hour after sunset and one-half hour before sunrise of any day.

(3) No person shall use, while hunting, any device capable of throwing or casting rays of light on any object. 1970, c. 58, s. 3.

Devices  
capable of  
throwing or  
casting rays  
of light

**24.** Notwithstanding section 23, the holder of a licence to hunt raccoon at night may possess or use a fire-arm of a calibre or type prescribed in the regulations or a light for the purpose of hunting raccoon at night during the open season therefor when accompanied by a dog licensed therefor. 1970, c. 58, s. 4, *amended*.

Exception  
raccoon  
hunting

**25.** No person shall hunt any animal or bird with a repeating, automatic or auto-loading shot-gun that has not been permanently plugged or altered so that it is incapable of holding a total of more than three shells at one time in the chamber and magazine. 1961-62, c. 48, s. 24.

Automatic  
shot-guns

**26.**—(1) Except as provided in the regulations, no person shall hunt, trap or possess, or attempt to trap, any animal or bird in a provincial park or in a Crown game preserve.

Hunting,  
etc., in  
provincial  
parks

(2) Except as provided in the regulations, no person shall possess in a provincial park or in a Crown game preserve any trap, explosive, gun or sporting implement. 1961-62, c. 48, s. 25.

Weapons in  
provincial  
parks

**27.** Except as provided in the regulations, no person shall take or kill or attempt to take or kill any animal by means of poison. 1961-62, c. 48, s. 26.

Poison  
prohibited

**28.** Except as provided in the regulations, no person shall use a ferret in hunting game animals. 1961-62, c. 48, s. 27.

Ferrets

**29.** No person shall use a set-gun in hunting game. 1964, c. 34, s. 6.

Set-guns

**30.** No person who has taken or killed an animal, bird or fish suitable for food shall allow the flesh to be destroyed or spoiled. 1961-62, c. 48, s. 28.

Flesh not to  
be wasted

**31.**—(1) Without the written authority of the Minister, no person shall release any animal or bird imported into Ontario or propagated from stock imported into Ontario.

Release of  
imported  
stock

(2) No person shall permit any animal or bird imported into Ontario or propagated from stock imported into Ontario to escape. 1970, c. 58, s. 5.

Control of  
imported  
stock

**32.** Nothing in this Act prevents the bringing of game into Ontario from a place outside Ontario or the possession in Ontario of game taken outside Ontario if the game was legally taken. 1961-62, c. 48, s. 30.

Importation  
of game

Hotels,  
restaurants,  
etc.

**33.** Except with the written authority of the Minister, no construction camp, lumber camp, mining camp, hotel, restaurant, boarding-house or other commercial premises shall mention on a bill of fare or serve any game, other than game that has been propagated or sold under a licence. 1961-62, c. 48, s. 31; 1962-63, c. 48, s. 3.

Offence to  
make false  
statement

**34.** Any person who knowingly makes any false statement in any application, statement under oath, report or return required by this Act or the regulations is, in addition to any other penalty for which he may be liable, guilty of an offence against this Act. 1961-62, c. 48, s. 32.

#### LICENCES

Licences

**35.** Except under the authority of a licence, no person shall hunt or trap or attempt to trap animals or birds. 1961-62, c. 48, s. 33.

Contraven-  
tion of  
terms, etc.

**36.**—(1) No person shall contravene the terms or conditions of his licence. 1961-62, c. 48, s. 34 (1).

Transfer of  
licence,  
coupon or  
seal

(2) Except as provided in the regulations, no licence shall be transferred and no person shall buy, sell, exchange or in any way be a party to the transfer of a licence, coupon or seal, or in any way use or attempt to use a licence, coupon or seal issued to any other person. 1961-62, c. 48, s. 34 (2); 1970, c. 58, s. 6 (1), *amended*.

Issue of  
licence dis-  
cretionary

(3) The issue of a licence is in the discretion of the Minister. 1961-62, c. 48, s. 34 (3).

Refund  
of fees

(4) The Minister may direct the refund of the fee paid for any licence where, owing to the licence not having been used by reason of sickness, accident or death, he considers it just, and the Treasurer of Ontario, upon the written request of the Minister, shall cause the refund to be made. 1964, c. 34, s. 7, *amended*.

Cancellation  
of licence  
in event  
of error

(5) The Minister may cancel any licence where an error has been made from any cause when issuing it, and the holder has no claim for indemnity or compensation with respect to it other than the adjustment or refund of any fee collected.

Licence to  
be carried

(6) Except as provided in the regulations, no holder of a licence shall hunt game unless at that time he has the licence on his person.

Production  
of licence  
on demand

(7) The holder of a licence shall produce and show it to any officer whenever requested by the officer. 1961-62, c. 48, s. 34 (5-7).

Wearing  
of badge

(8) The holder of a licence of a class designated in the regulations shall, while hunting, wear in a conspicuous place on his person a badge clearly showing the number of the licence. 1967, c. 30, s. 2; 1970, c. 58, s. 6 (2), *amended*.

(9) The holder of a licence obtained by any false or misleading statement made in respect of any information required for the issue of the licence shall be deemed to be the holder of a void licence and the holder may be prosecuted under this Act in the same manner and with the same effect as he could be prosecuted if he were not the holder of a licence. 1961-62, c. 48, s. 34 (9). Licence obtained by misrepresentation

**37.** Except as provided in the regulations, no licence shall be issued to any person under the age of sixteen years. 1961-62, c. 48, s. 35. Minors

**38.**—(1) No person shall issue any licence or collect any fee in respect thereof unless authorized by the Minister. 1961-62, c. 48, s. 36 (1). Issuers of licences

(2) The Minister may authorize any person to issue licences, and such issuers of licences shall have the powers and duties prescribed by the manual of licence-issuing instructions authorized by the Minister. Idem

(3) Every issuer of licences shall be deemed to be a trustee of the Crown of the licence fees collected by him or on his behalf. Licence issuers as trustees

(4) Every issuer of licences shall comply with the manual of licence-issuing instructions, and, if he fails so to do, he is guilty of an offence against this Act. Duties, etc., of licensees

(5) No person shall possess a licence that does not exhibit the name of the holder or that is ante-dated or undated or a material part of which is not completed. 1964, c. 34, s. 8. Licence in blank

**39.**—(1) The Minister may in writing authorize any municipality to pass by-laws for issuing and fixing the maximum number of licences to hunt, during the open season, pheasants, rabbits and foxes and for charging such fees therefor as he authorizes, and the Minister may fix the minimum number of such licences that the by-law shall provide for. Municipal licences to hunt pheasants, etc.

(2) Where a municipality has passed a by-law under subsection 1, no person shall hunt pheasants, rabbits or foxes in the municipality during the open season without a licence from the municipality. Where municipal licence required

(3) Where a municipality has passed a by-law under subsection 1, the Minister may in writing authorize the municipality to pass a further by-law to provide that a licence to hunt animals and birds not protected by this Act or the regulations or the *Migratory Birds Convention Act* (Canada) or the regulations made under that Act, during the period between the 1st day of March and the 31st day of August, is not valid in that municipality unless it is signed by the clerk of the municipality or by a person authorized by him. 1961-62, c. 48, s. 37. Validity of licence  
R.S.C. 1952, c. 179



Repeal of  
by-laws

(4) The Minister may in writing authorize the repeal of a by-law passed under subsection 1, and the repealing by-law may provide for the refund, in whole or in part, of licence fees paid for licences issued under the repealed by-law. 1964, c. 34, s. 9.

Interpre-  
tation

**40.**—(1) In this section, “guide” means a person who for reward carries out the customary duties of a hunting or angling guide.

Guides

(2) Except under the authority of a licence, no person shall act as a guide in any part of Ontario designated in the regulations.

Employment  
of guides

(3) In any part of Ontario designated as an area in which no person shall act as a guide except under the authority of a licence, no person shall employ as a guide a person who is not the holder of a guide’s licence.

Limitation  
of guides

(4) The holder of a guide’s licence shall not act as a guide for any person for any purpose for which that person is required to have a licence under this Act or the Ontario Fishery Regulations unless that person is the holder of a licence for the purpose.

Guides for  
non-resident  
hunters

(5) No non-resident shall hunt deer or moose in any part of Ontario designated in the regulations without employing or being accompanied by a licensed guide, but, where two or more non-residents hunt together, the number of guides employed need not be more than one guide for each two non-residents. 1962-63, c. 48, s. 4.

#### ILLEGAL POSSESSION OF GAME

Possession  
of game

**41.** No person shall knowingly possess any game hunted in contravention of this Act or the regulations. 1964, c. 34, s. 10.

#### GAME ANIMALS

Open  
seasons

**42.**—(1) Except under the authority of a licence and during such times and on such terms and conditions and in such parts of Ontario as are prescribed in the regulations, no person shall hunt black bear, polar bear, caribou, deer or moose.

Multiplicity  
of licences

(2) Except as provided in the regulations, no person shall be the holder of more than one licence to hunt caribou, deer or moose in any year. 1961-62, c. 48, s. 38.

Caribou,  
deer and  
moose that  
may be  
taken

**43.**—(1) Subject to subsections 2, 3 and 4, no person shall, during the open season, take or kill more than one caribou under a licence to hunt caribou, one deer under a licence to hunt deer, or one moose under a licence to hunt moose.

Exception,  
party  
hunting  
caribou

(2) Where two or more persons who hold licences to hunt caribou are hunting as a party, any member of the party may take or kill the number of caribou that is equal to the number of such licences held by the members of the party, but in no case shall the

total number of caribou taken or killed by the members of the party exceed the total number of such licences held by the members of the party.

(3) Where two or more persons who hold licences to hunt deer are hunting as a party, any member of the party may take or kill the number of deer that is equal to the number of such licences held by the members of the party, but in no case shall the total number of deer taken or killed by the members of the party exceed the total number of such licences held by the members of the party.

Exception,  
party  
hunting  
deer

(4) Where two or more persons who hold licences to hunt moose are hunting as a party, any member of the party may take or kill the number of moose that is equal to the number of such licences held by the members of the party, but in no case shall the total number of moose taken or killed by the members of the party exceed the total number of such licences held by the members of the party. 1961-62, c. 48, s. 39.

Exception,  
party  
hunting  
moose

(5) Subject to subsection 6, no non-resident shall, during the open season, take or kill more than one black bear under a licence to hunt bear.

Bear that  
may be  
taken

(6) Where two or more non-residents who hold licences to hunt bear are hunting as a party, any member of the party may take or kill the number of bear that is equal to the number of such licences held by the members of the party, but in no case shall the total number of bear taken or killed by the members of the party exceed the total number of such licences held by the members of the party.

Exception,  
party  
hunting bear

(7) Where a party of hunters is composed of residents and non-residents, the non-residents shall, for the purposes of subsection 6, be deemed to be a party. 1970, c. 58, s. 7.

Idem

**44.**—(1) No person shall take or kill a black bear, polar bear, caribou, deer or moose by means of a trap, net, baited line or other similar contrivance or set any of them for any such animal. 1961-62, c. 48, s. 40.

Traps, nets,  
snares, etc.,  
prohibited

(2) Notwithstanding subsection 1, black bear may be trapped during such times and subject to such terms and conditions as are prescribed in the regulations. 1962-63, c. 48, s. 5.

Exception

**45.** No person shall hunt a caribou, deer or moose while it is swimming. 1961-62, c. 48, s. 41.

Swimming  
caribou,  
deer or  
moose

**46.** Except under the authority of a licence and during such times and on such terms and conditions and in such parts of Ontario as the Minister prescribes, no person shall hunt or trap or attempt to trap any rabbit or any black, grey or fox squirrel. 1961-62, c. 48, s. 42.

Hunting,  
trapping,  
etc.

Licence  
for sale  
of game  
animal

**47.**—(1) Except under the authority of a licence and subject to the regulations, no person shall sell, offer for sale, purchase or barter, or be concerned in the sale, purchase or barter of a game animal or possess a game animal for sale. 1961-62, c. 48, s. 43 (1); 1964, c. 34, s. 11.

Exception

(2) Subsection 1 does not apply to European hare or varying hare. 1961-62, c. 48, s. 43 (2).

Taking  
of game  
animal for  
scientific  
purposes

**48.** Except with the written authority of the Minister, no person shall, during a closed season, take a game animal for educational or scientific purposes. 1961-62, c. 48, s. 44.

Dealing in  
bear meat

**49.** Notwithstanding anything in this Act, any person may under the authority of a licence sell the meat of a bear if taken lawfully, and any person may without a licence possess or buy any bear meat for his own use. 1961-62, c. 48, s. 45.

#### GAME BIRDS

Grouse,  
partridge,  
etc.

**50.** Except under the authority of a licence and during such times and on such terms and conditions and in such parts of Ontario as are prescribed in the regulations, no person shall hunt ruffed grouse, spruce grouse, Hungarian partridge, pheasant, sharp-tailed grouse, greater prairie-chicken, ptarmigan, bob-white quail or wild turkey. 1961-62, c. 48, s. 46.

Hunting  
birds

**51.** No person shall hunt any game bird during the closed season or any other bird at any time, except crows, cowbirds, blackbirds, starlings, house-sparrows and birds, other than pheasants or Hungarian partridge, released under section 31. 1961-62, c. 48, s. 47; 1964, c. 34, s. 12.

Traps and  
snares  
prohibited

**52.** No person shall use, set or maintain a net, trap, spring, cage or other similar contrivance for the purpose of taking or killing any game bird. 1961-62, c. 48, s. 48.

Use of rifle  
to hunt  
pheasant  
prohibited

**53.** No person shall hunt pheasant with a rifle. 1961-62, c. 48, s. 49.

Licence for  
propagation,  
etc., of  
game birds

**54.** Except under the authority of a licence and subject to the regulations, no person shall propagate or sell a game bird or possess a game bird for propagation or sale. 1961-62, c. 48, s. 50.

Game bird  
hunting  
preserves

**55.**—(1) Except under the authority of a licence and subject to the regulations, no person shall own or operate a game bird hunting preserve. 1961-62, c. 48, s. 51.

Exception

(2) Subsection 1 does not apply to a person or a game bird hunting preserve exempted under the regulations. 1970, c. 58, s. 8.

**56.** No person shall take, destroy or possess the eggs or nests of any game bird, except with the written authority of the Minister to take, destroy or possess the eggs or nests for educational or scientific purposes. 1961-62, c. 48, s. 52.

Eggs and  
nests  
protected

#### FUR-BEARING ANIMALS

**57.** Except under the authority of a licence and during such times and on such terms and conditions and in such parts of Ontario as the Minister prescribes, no person shall hunt or trap or attempt to trap any fur-bearing animal. 1961-62, c. 48, s. 53.

Hunting,  
trapping,  
etc.

**58.**—(1) The Minister may, in a licence to hunt or trap fur-bearing animals,

Licence to  
trap

- (a) fix the number of each species of fur-bearing animal that may be taken thereunder; and
- (b) designate the area in which fur-bearing animals may be taken thereunder by the holder of the licence.

(2) The Minister may limit the number of licences to hunt or trap fur-bearing animals in any area.

(3) No non-resident shall be the holder of a licence to hunt or trap fur-bearing animals.

Non-  
residents

(4) The holder of a licence to hunt or trap fur-bearing animals may sell any fur-bearing animal taken by him under the authority of the licence or the pelt of any such animal.

Authority  
to sell

(5) Subject to sections 26 and 39, the holder of a licence to hunt or trap fur-bearing animals may, under the authority of that licence and without any other licence, hunt, in the area described in the licence during the open seasons between the 15th day of October and the 30th day of June in the year next following, any bird or animal, other than caribou, deer or moose.

Exceptions  
as to  
trappers

(6) A farmer or any of his family residing with him upon his lands may without a licence hunt or trap thereon fur-bearing animals during the open seasons and may hunt thereon birds or animals, other than caribou, deer or moose, during the open seasons, and, subject to this Act, any farmer may without a licence sell the fur-bearing animals so hunted or trapped or the pelts thereof, but he shall keep such records and make such returns relating thereto as are prescribed in the regulations. 1961-62, c. 48, s. 54.

Exceptions  
as to  
farmers

**59.** No person shall touch or interfere with any set trap, unless authorized so to do by law or by the owner thereof. 1966, c. 60, s. 6.

Interference  
with traps



Animals  
taken in  
preservation  
of property

**60.** Where a person has taken or killed any fur-bearing animal in the closed season on his own lands in defence or preservation of his property, he shall within ten days thereof report the facts to the Department, and he shall not offer the pelt of such fur-bearing animal for sale or barter during the closed season except under a licence, and any fur dealer possessing such a pelt shall hold the licence and forward it to the Department when applying for a licence to ship it out of Ontario or to dress or tan it. 1961-62, c. 48, s. 55.

Possession  
of fur-  
bearing  
animals in  
closed  
season

**61.** Except as provided in the regulations, no person shall during the closed season have in his possession or in that of his servant or agent, or in that of any other person on his behalf, any fur-bearing animal wherever killed,

- (a) except that a pelt of an animal killed in Ontario may be possessed during the closed season under a licence if applied for within ten days after the end of the open season in which it was killed, but this clause does not apply to the pelts of beaver, fisher, lynx, marten, mink and otter that have been sealed or marked in accordance with this Act or to the pelts of mink raised on a fur farm; and
- (b) except that a pelt of an animal killed outside Ontario may be possessed during the closed season under a licence if applied for within forty-eight hours after the pelt is received. 1961-62, c. 48, s. 56, *amended*.

Licences:

**62.**—(1) Except under the authority of a licence, no person shall,

fur tanner's

- (a) engage in or carry on, or be concerned in, the tanning, plucking or treating of pelts; or

fur dealer's

- (b) possess, engage in or carry on, or be concerned in, the trading, buying or selling of fur-bearing animals or pelts.

Trade only  
between  
licensed fur  
dealers

(2) No holder of a licence under clause *b* of subsection 1 shall sell, trade or barter, or be concerned in the selling, trading or bartering, of pelts to or with any other person in Ontario, except where that other person holds a licence under clause *b* of subsection 1. 1961-62, c. 48, s. 57.

Sealing and  
marking of  
skins and  
pelts

**63.**—(1) The pelts of beaver, fisher, lynx, marten, mink, and otter shall be sealed or marked by a duly authorized person before sale, and no person licensed under clause *b* of subsection 1 of section 62 shall have unsealed or unmarked beaver, fisher, lynx, marten, mink or otter pelts in his possession.

Exception

(2) Subsection 1 does not apply to the pelts of mink raised on a fur farm.

(3) No person shall present or permit to be presented for Offence sealing or marking the pelt of a beaver, fisher, lynx, marten, mink or otter that was not taken by him under the authority of his licence to hunt or trap fur-bearing animals or under subsection 6 of section 58.

(4) No person shall be party to having or attempting to have Idem sealed or marked the pelt of a beaver, fisher, lynx, marten, mink or otter that was not taken under the authority of the licence that is presented with the pelt. 1961-62, c. 48, s. 58.

**64.** Except under the authority of a licence, no person shall propagate a fur-bearing animal or possess a fur-bearing animal for propagation. 1961-62, c. 48, s. 59. Licence for propagation of fur-bearing animal

**65.** Subject to section 2 and except under the authority of a licence to hunt or trap fur-bearing animals, no person shall molest, damage or destroy, Dens of fur-bearing animals

(a) a den or usual place of habitation of a fur-bearing animal, other than that of a fox or skunk; or

(b) a beaver dam. 1961-62, c. 48, s. 60.

**66.**—(1) No person shall take or ship or attempt to take or ship to a point outside Ontario any fur-bearing animal or its pelt without a licence and without paying the royalty prescribed in the regulations. Royalties payable

(2) No person shall send or have sent any fur-bearing animal or its pelt to a tanner or taxidermist to be tanned, plucked or treated in any way without a licence and without paying the royalty prescribed in the regulations. 1961-62, c. 48, s. 61. Idem

**67.** No person who has taken or killed a fur-bearing animal shall allow the pelt to be destroyed or spoiled. 1961-62, c. 48, s. 62. Pelts not to be destroyed

**68.** Notwithstanding anything in this Act, any person may under the authority of a licence sell the meat of a beaver, muskrat or raccoon if taken lawfully, and any person may without a licence possess or buy any such meat for his own use. 1961-62, c. 48, s. 63. Dealing in muskrat, etc.

#### FISH

**69.**—(1) No person shall sell, offer for sale, purchase or barter, or be concerned in the sale, purchase or barter, of an Atlantic salmon (also known as ouananiche) taken from Ontario waters, a smallmouth bass, largemouth bass, maskinonge, brook trout, brown trout, rainbow trout or Aurora trout, but, under the authority of a licence to propagate and sell bass and trout and subject to such terms and conditions as are prescribed in the regulations, a person may sell, No traffic in certain fish

- (a) smallmouth bass, largemouth bass, brook trout or rainbow trout for the purpose of stocking; and
- (b) brook trout and rainbow trout for human consumption. 1964, c. 34, s. 13; 1970, c. 58, s. 9 (1).

Idem (2) No person shall sell, offer for sale, purchase or barter, or be concerned in the sale, purchase or barter, of yellow pickerel (also known as pike-perch, walleye or dore), pike, lake trout or sturgeon taken from Ontario waters by angling or taken in any other manner by a person without a commercial fishing licence. 1961-62, c. 48, s. 64 (2); 1970, c. 58, s. 9 (2).

Idem (3) No person shall buy, sell or possess a fish or part of a fish taken from Ontario waters during the closed season for that fish. 1961-62, c. 48, s. 64 (3);

Fishing preserves **70.**—(1) Except under the authority of a licence and subject to the regulations, no person shall own or operate a fishing preserve.

Exception (2) Subsection 1 does not apply to a person or a fishing preserve exempted under the regulations. 1970, c. 58, s. 10.

Fish nets, possession **71.**—(1) Except under the authority of a licence, no person shall possess a gill, hoop, pound, seine, trap or trawl net.

Idem (2) No person shall sell a gill, hoop, pound, seine, trap or trawl net to any person not the holder of a commercial fishing licence or a licence under subsection 1. 1961-62, c. 48, s. 65.

Right to fish **72.** The ownership of the bed of a navigable water or of a lake or river does not include the exclusive right of fishing in the water that covers or flows over the bed unless that exclusive right is expressly granted by the Crown. 1961-62, c. 48, s. 67.

#### FROGS

Waters set apart **73.** No person shall take or attempt to take frogs by any means from waters set apart for the conservation or propagation of frogs, but the Minister may, in writing, authorize frogs to be taken from such waters for scientific purposes. 1966, c. 60, s. 8, *part*.

Closed season **74.** No person shall take a bullfrog during a closed season. 1966, c. 60, s. 8, *part*.

Taking bullfrogs for sale **75.** Except under the authority of a licence and on such terms and conditions and in such parts of Ontario as the Lieutenant Governor in Council prescribes, no person shall take bullfrogs for the purpose of sale or barter. 1966, c. 60, s. 8, *part*.

DOGS

**76.** Except under the authority of a licence issued for the dog, no person shall use or be accompanied by a dog while hunting caribou, deer or moose. 1961-62, c. 48, s. 68.

Use of dogs in hunting deer, etc.

**77.—(1)** No person owning, claiming to own or harbouring a dog shall allow it to run at large during the closed season for deer in a locality that deer usually inhabit or in which they are usually found, and a dog found running deer during the closed season for deer in such a locality may be killed on sight by an officer without incurring any liability or penalty therefor.

Dogs running at large, etc.

(2) No person shall use or be accompanied by a dog while hunting deer in a part of Ontario that is designated in the regulations, and a dog found running at large in such a designated part of Ontario may be killed on sight by an officer without incurring any liability or penalty therefor. 1961-62, c. 48, s. 69.

Use of dogs in hunting deer prohibited in designated areas, etc.

**78.** Except in a field trial approved in writing by the Minister, no person owning, claiming to own or harbouring a dog shall allow it to molest or follow upon the track of any game bird during the months of April, May, June and July in any year or disturb its nest at any time. 1961-62, c. 48, s. 70.

Restricted use of dogs

LIVE GAME AND WOLVES

**79.—(1)** Except under the authority of a licence issued on such terms and conditions as are prescribed in the regulations, no person shall keep live game or a wolf in captivity for more than ten days. 1961-62, c. 48, s. 71 (1); 1964, c. 34, s. 14, *amended*.

Live game kept in captivity

(2) Live game or a wolf kept in captivity contrary to this section and any cage, pen, crate, shelter or other enclosure used in connection therewith shall be seized, and, upon conviction of the person in possession or control thereof, becomes the property of the Crown in right of Ontario and may be disposed of by the Minister.

Seizure of animals cages, etc.

(3) This section does not apply where live game or a wolf is kept in captivity in a public zoo or for scientific or educational purposes in a public institution. 1961-62, c. 48, s. 71 (2, 3).

Application of section

TRANSPORTATION AND EXPORT

**80.—(1)** No non-resident entitled to hunt under a licence shall export more game than the number he is authorized to possess by this Act or the regulations or the *Migratory Birds Convention Act* (Canada) or the regulations made under that Act.

Export of game by non-residents R.S.C. 1952, c. 179

(2) No person shall ship or transport or cause to be shipped or transported, or receive or possess for shipment or transport, fish or game caught, taken or killed in Ontario during the closed season.

Transport of fish or game illegally taken



Transport  
of game  
under  
permit

(3) The Minister may issue a permit not inconsistent with any law of Canada to export from Ontario or to transport in Ontario at any time any game, whether dead or alive, upon proof under oath satisfactory to him that the game has been lawfully taken. 1961-62, c. 48, s. 72.

Game  
export  
permits

(4) The Minister may issue to a non-resident entitled to hunt under a licence a permit not inconsistent with any law of Canada to export from Ontario or to transport in Ontario at any time any animal or bird killed by him under the licence upon proof satisfactory to the Minister that the animal or bird has been lawfully taken and upon payment of the fee prescribed in the regulations and any such permit shall be deemed to be a permit mentioned in subsection 3. 1970, c. 58, s. 11.

Receptacles  
to be  
marked

**81.** No person shall ship or transport or cause to be shipped or transported, or receive or possess for shipment or transport, a receptacle containing game or fish that is not plainly marked on the outside in such a manner as to give a description of the contents and the name and address of the consignee and of the consignor. 1961-62, c. 48, s. 73.

#### PROCEDURE

Offence

**82.** A contravention of this Act or the regulations or of the terms and conditions of a licence is an offence against this Act. 1961-62, c. 48, s. 74.

Description  
of offence

**83.** The description of an offence in the words of this Act or of the regulations, as the case may be, or in any words to the like effect, is sufficient, and an information may be for more than one offence, and more than one offence may be set out in one count. 1961-62, c. 48, s. 75.

Similar  
offence on  
the same  
day

**84.** Where in a prosecution under this Act it appears in evidence that more than one offence of the same kind was committed at the same time or on the same day, the court shall in one conviction impose all the penalties at the same time. 1961-62, c. 48, s. 76.

Procedure  
R.S.O. 1970,  
c. 450

**85.** Except where otherwise provided, *The Summary Convictions Act* applies to all prosecutions under this Act. 1961-62, c. 48, s. 77.

Money  
payment as  
security for  
appearance  
in court

**86.**—(1) The Minister may authorize any officer to collect a money payment as security for appearance in court from any person against whom the officer is about to lay an information for an offence against this Act or the regulations. 1961-62, c. 48, s. 78 (1); 1966, c. 60, s. 9.

(2) Where a money payment has been collected under subsection 1 and the person charged does not appear in court, he may be tried *in absentia* and, upon conviction, whether or not he has appeared in court, the money payment shall be applied to the payment of any fine imposed and the costs, and the balance, if any, shall be remitted to the person convicted, and, where no conviction is made, the money payment shall be remitted to the person who made it. 1961-62, c. 48, s. 78 (2).

Disposition  
of money  
payments

**87.**—(1) All property forfeited to the Crown under this Act may be disposed of by the Minister, and, where the seizure has been made from a person unknown, perishable game or fish may be disposed of forthwith, and any other property seized may be disposed of by the Minister after the expiration of thirty days.

Disposition  
of forfeited  
property

(2) Where the Minister is satisfied that the forfeiture of any property, other than game or fish, would work undue hardship or injustice, he may grant relief from forfeiture, in whole or in part, and direct its return to the person from whom it was taken upon such terms and conditions as he considers proper. 1961-62, c. 48, s. 79.

Relief from  
forfeiture

**88.**—(1) Upon the conviction of any person of an offence against this Act or the Ontario Fishery Regulations, any licence, except a licence to hunt, other than a licence to hunt or trap fur-bearing animals, which is held by him and which is related to the offence, shall be deemed to be cancelled without further action or notice, but the Minister may revive the licence upon such terms and conditions as he considers proper. 1961-62, c. 48, s. 80 (1).

Cancellation  
and revival  
of licences  
after  
conviction

(2) Upon the conviction of any person of an offence against this Act or under *The Forest Fires Prevention Act*, the *Migratory Birds Convention Act* (Canada) or the regulations made under that Act, or under section 165, 191, 192, 193, 372, 373, 374, 375, 377, 383, 384, 385, 386 or 387 of the *Criminal Code* (Canada) as amended or re-enacted from time to time, committed while using or in possession of a fire-arm for the purpose of hunting, the court may cancel any licence to hunt, except a licence to hunt or trap fur-bearing animals, issued to such person, and, upon such conviction, the court may order that such person shall not apply for or procure any licence to hunt, except a licence to hunt or trap fur-bearing animals, during the period stated in the order. 1961-62, c. 48, s. 80 (2); 1964, c. 34, s. 15; 1970, c. 58, s. 12 (1).

Cancellation  
and pro-  
hibition  
against  
issue of  
licences  
R.S.O. 1970,  
c. 179  
R.S.C. 1952,  
c. 179  
1953-54,  
c. 51 (Can.)

(3) Upon the conviction of a holder of a licence mentioned in subsection 1 of section 79 of an offence against section 386 or 387 of the *Criminal Code* (Canada) committed in respect of live game or a wolf held under the licence, the court may cancel the licence.

Idem

Idem (4) Upon conviction of any person of an offence against section 19, the court, in addition to making an order under subsection 2, may order that the convicted person shall not apply for or procure a licence to hunt, except upon the successful completion of an examination for applicants for licences. 1970, c. 58, s. 12 (2).

Offence (5) Every person who fails to comply with an order made against him under subsection 2 or 3 is guilty of an offence against this Act. 1961-62, c. 48, s. 80 (3); 1970, c. 58, s. 12 (3).

Evidence **89.** In prosecutions under this Act in respect of,

- (a) taking, killing, procuring or possessing game or fish, or any part thereof, the onus is upon the person charged to prove that the game or fish or part thereof was lawfully taken, killed, procured or possessed by him;
- (b) hunting or trapping, the possession of a gun, decoy or other implement for hunting or trapping in or near a place that game inhabits or where game is usually found is *prima facie* proof that the person in possession of it was hunting or trapping, as the case may be; or
- (c) making of returns by a licensee or an issuer of licences, the production of a return is *prima facie* proof of the making of such return and the contents thereof. 1961-62, c. 48, s. 81.

General penalty **90.** Except where otherwise provided, every person who commits an offence against this Act is liable to a fine of not more than \$1,000. 1961-62, c. 48, s. 82.

#### REGULATIONS

Regulations by Lt. Gov. in Council **91.** The Lieutenant Governor in Council may make regulations,

1. establishing classes for licences referred to in this Act or the regulations or the Ontario Fishery Regulations, governing the issue, form, renewal, transfer, refusal and cancellation of licences or any class of them, prescribing their duration, territorial limitations, terms and conditions and the fees payable therefor, and limiting the number of licences of any class that may be issued; 1961-62, c. 48, s. 83, par. 1.
2. requiring and prescribing the issue, form, duration and terms and conditions of coupons or tags to be issued with any licence, and requiring the licensee to make such use thereof as is prescribed;
3. prescribing the calibre and type of fire-arms that may be used under section 24; 1964, c. 34, s. 16 (1), *part*.

4. prescribing the fees payable for game export permits for any species of animal or bird; 1970, c. 58, s. 13 (1), *part.*
5. respecting the issue of licences to trap fur-bearing animals on Crown lands and dividing Ontario or any part thereof into trap-line areas and designating such areas by identifying numbers and initials;
6. providing for licensing persons to hunt in any provincial park in which hunting is permitted under paragraph 23 or on Crown lands in any part of Ontario designated under paragraph 24;
7. prescribing the terms and conditions upon which licences may be issued to persons under sixteen years of age; 1961-62, c. 48, s. 83, pars. 2-4.
8. designating classes of licences for the purposes of subsection 8 of section 36; 1967, c. 30, s. 3.
9. declaring animals, other than those mentioned in paragraph 10 of section 1, to be fur-bearing animals;
10. governing the sale of or traffic in any game, prescribing the fees payable for a seal, tag or other means of identification that is furnished by the Department to the holder of a licence to sell any such game, and requiring such holder to use such seal, tag or other means of identification in the manner prescribed; 1961-62, c. 48, s. 83, pars. 5, 6.
11. designating the species of game birds that may be propagated, sold or possessed for propagation or sale under a licence mentioned in section 54; 1966, c. 60, s. 10 (1).
12. authorizing and regulating the sale of game brought into Ontario and lawfully hunted or procured according to the law of the place in which it was hunted or procured;
13. prescribing the number of game animals, game birds or fur-bearing animals that may be possessed;
14. prescribing the open seasons during which and the terms and conditions upon which black bear, polar bear, caribou, deer or moose may be hunted;
15. prescribing the open seasons during which and the terms and conditions upon which ruffed grouse, spruce grouse, Hungarian partridge, pheasant, sharptailed grouse, greater prairie-chicken, ptarmigan, bob-white quail or wild turkey may be hunted;



16. designating any parts of Ontario in which no person shall use or be accompanied by a dog while hunting deer; 1961-62, c. 48, s. 83, pars. 7-11.
17. limiting the number of licences that may be issued to own or operate game bird hunting preserves, designating the species of game birds that may be possessed under such a licence, prescribing minimum and maximum areas for preserves, requiring and regulating the posting of boundaries of preserves and the release of game on preserves, and regulating the spacing of preserves, the taking or killing of game on preserves and the use of preserves for hunting; 1961-62, c. 48, s. 83, par. 12; 1966, c. 60, s. 10 (2).
18. providing for the exemption from subsection 1 of section 55 and from the regulations or any provision thereof, of any person or class of persons or any game bird hunting preserve or class thereof, and prescribing the terms and conditions therefor;
19. limiting the number of licences that may be issued to own or operate fishing preserves, designating the species of fish that may be possessed under such a licence, prescribing minimum and maximum areas for preserves, requiring and regulating the posting of boundaries of preserves and the release of fish on preserves, and regulating the spacing of preserves, the taking or killing of fish on preserves and the use of preserves for fishing;
20. providing for the exemption from subsection 1 of section 70 and from the regulations or any provision thereof, of any person or class or persons, or any fishing preserve or class thereof, and prescribing the terms and conditions therefor; 1970, c. 58, s. 13 (1), *part*.
21. designating parts of Ontario as Crown game preserves and providing for licensing persons to possess guns in Crown game preserves; 1961-62, c. 48, s. 83, par. 13.
22. prohibiting and regulating entry on Crown game preserves on Crown land; 1964, c. 34, s. 16 (1), *part*.
23. prescribing the conditions under which animals or birds may be hunted in provincial parks or Crown game preserves, providing for and regulating the possession or use of traps, explosives, guns or sporting implements in provincial parks or Crown game preserves, and prohibiting the use of motor-boats for trolling in provincial parks; 1961-62, c. 48, s. 83, par. 14.
24. designating Crown lands or lands in which the Crown has acquired an interest or in respect of which an

- agreement has been entered into under section 6 on which hunting may be regulated, limiting and regulating the number of hunters that may hunt at any time and the hours during which hunting may be carried on, and prescribing the fees that may be charged for the use of equipment and facilities supplied by the Department; 1961-62, c. 48, s. 83, par. 15; 1962-63, c. 48, s. 6 (1).
25. designating parts of Ontario as "hinterland areas" and prohibiting persons, other than residents of the areas, from entering and travelling about therein for the purpose of fishing or hunting;
  26. prescribing the terms and conditions upon which aircraft may be used while hunting;
  27. prescribing the terms and conditions upon which wolves may be hunted from an aircraft or vehicle;
  28. prescribing the terms and conditions upon which a person may use a ferret for hunting game animals;
  29. prescribing the terms and conditions upon which a person may use poison for taking or killing any animal;
  30. regulating or prohibiting the use of snares; 1961-62, c. 48, s. 83, pars. 16-21.
  31. regulating, restricting or prohibiting the possession or use of fire-arms for the purpose of hunting; 1961-62, c. 48, s. 83, par. 22; 1964, c. 34, s. 16 (2).
  32. prescribing the times during which and the terms and conditions on which black bear may be trapped; 1962-63, c. 48, s. 6 (2).
  33. providing for and establishing a program to promote the safe handling of fire-arms by hunters;
  34. providing for the appointment of examiners and for the examination of applicants for licences and prescribing fees for examinations; 1966, c. 60, s. 10 (3).
  35. governing the sale under subsection 1 of section 69 of smallmouth bass, largemouth bass, brook trout or rainbow trout, prescribing the fees payable for a seal, tag or other means of identification that is furnished by the Department to the holder of a licence to propagate and sell any such fish, and requiring such holder to use such seal, tag or other means of identification in the manner prescribed; 1964, c. 34, s. 16 (3); 1970, c. 58, s. 13 (2).
  36. prescribing the royalties payable in respect of fish or under section 66, and excepting any fish or fur-bearing animal therefrom; 1961-62, c. 48, s. 83, par. 25.

37. designating counties for the purpose of subsection 1 of section 21;
38. prescribing the open seasons during which bullfrogs may be taken, the number of bullfrogs that may be possessed by a person who is not the holder of a licence to take bullfrogs for the purpose of sale or barter, the methods by which the holder of such a licence may take bullfrogs, and the parts of Ontario in which bullfrogs may be taken for the purpose of sale or barter; 1966, c. 60, s. 10 (4).
39. permitting residents of any province extending a similar right to Ontario residents to be classed as Ontario residents for the purpose of any specified licence under this Act;
40. requiring any person to keep such records and make such reports and returns as are prescribed;
41. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1961-62, c. 48, s. 83, pars. 26-28.

Regulations  
by Minister

**92.** The Minister may make regulations,

1. prescribing the open seasons during which and the terms and conditions upon which any fur-bearing animal may be hunted or trapped or the pelt of any of them may be possessed;
2. prescribing the open seasons during which and the terms and conditions upon which rabbits or black, grey or fox squirrels may be hunted or trapped;
3. setting apart waters for the conservation or propagation of frogs;
4. regulating or prohibiting the placing of huts on ice for the purpose of fishing and regulating their use and requiring and regulating their removal;
5. for the purposes of section 40, designating parts of Ontario as areas in which no person shall act as a guide except under the authority of a licence;
6. designating parts of Ontario as areas in which no non-resident shall hunt deer or moose without employing or being accompanied by a licensed guide. 1961-62, c. 48, s. 84; 1962-63, c. 48, s. 7; 1966, c. 60, s. 11.

Regulations  
may be  
limited

**93.** Any regulation may be limited territorially or as to time or otherwise. 1961-62, c. 48, s. 85.

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## CHAPTER 187

## The Gaming Act

**1.** Every agreement, note, bill, bond, confession of judgment, *cognovit actionem*, warrant of attorney to confess judgment, mortgage or other security, or conveyance, the consideration for which, or any part of it, is money or other valuable thing won by gaming, or by playing at cards, dice, tables, tennis, bowls or other game, or by betting on the sides or hands of the players, or for reimbursing or repaying any money knowingly lent or advanced for such gaming or betting, or lent or advanced at the time and place of the game or play to a person so gaming, playing, or betting, or who, during the game or play, so plays, games or bets, shall be deemed to have been made, drawn, accepted, given or executed for an illegal consideration. R.S.O. 1960, c. 159, s. 1.

Gaming  
transactions  
illegal

**2.** If any person makes, draws, gives or executes any note, bill or mortgage for any consideration that is declared to be illegal by section 1 and actually pays to an endorsee, holder or assignee of the note, bill or mortgage the amount of the money thereby secured or any part thereof, such money shall be deemed to have been paid for and on account of the person to whom the note, bill or mortgage was originally given and to be a debt due and owing from such last named person to the person who paid the money, and accordingly is recoverable by action. R.S.O. 1960, c. 159, s. 2.

Recovery  
of money  
paid on  
gaming  
transaction

**3.** Any person who, at any time or sitting, by playing at cards, dice, tables or other game, or by betting on the sides or hands of the players, loses to any person so playing or betting, in the whole, the sum or value of \$40 or upwards, and pays or delivers the same or any part thereof, may, within three months thereafter, sue for and recover the money or thing so lost and paid or delivered. R.S.O. 1960, c. 159, s. 3.

Recovery of  
money lost  
at one  
sitting to the  
extent of  
\$40 or more

**4.** Every contract or agreement by way of gaming or wagering is void, and no suit shall be brought or maintained for recovering any sum of money or valuable thing alleged to be won upon a wager, or that has been deposited in the hands of any person to abide the event on which a wager has been made, but this section does not apply to a subscription or contribution, or agreement to subscribe or contribute for or towards any plate, prize, or sum of money to be awarded to the winner of any lawful game, sport, pastime or exercise. R.S.O. 1960, c. 159, s. 4.

Payment of  
wagers not  
enforceable



Promises to  
repay sums  
paid under  
contract  
void by  
section 4

**5.** Any promise, express or implied, to pay any person a sum of money paid by him under or in respect of a contract or agreement rendered void by section 4, or to pay a sum of money by way of commission, fee, reward or otherwise in respect of such a contract or agreement, or of any services in relation thereto or in connection therewith, is void, and no action shall be brought or maintained to recover any such sum of money. R.S.O. 1960, c. 159, s. 5.

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## CHAPTER 188

## The Gas and Oil Leases Act

**1.** In this Act,Interpre-  
tation

- (a) “gas or oil lease” includes any agreement, whether by way of option, lease, grant or otherwise, granting the right to operate lands for the production and removal of natural gas or oil, or both, except a grant to so operate where the amount or payment of the consideration therefor is not dependent upon the operation of such lands or upon the production of gas or oil or upon the amount of gas or oil produced, and “lessee” and “lessor” have corresponding meanings and include heirs, successors, administrators, executors, assigns and transferees of the lessee or lessor, as the case may be;
- (b) “judge” means the judge of the county or district court of the county or district in which the land is situate. 1962-63, c. 49, s. 1.

**2.**—(1) Where the lessor of any land or any other person having an interest in such land or any person authorized by such lessor or other person alleges,

Applica-  
tion upon  
default

- (a) that a lessee has made default under the terms of a gas or oil lease affecting the land in that he has failed to commence to drill or has failed to complete the drilling of a well for natural gas or oil and has failed to pay rentals in lieu thereof; or
- (b) that a lessee has made default under the terms of a gas or oil lease affecting the land, other than a default specified in clause *a*, and
  - (i) that the default has continued for a period of two years, or
  - (ii) that, the default having continued for a period of less than two years, the lessor has given notice in writing to the lessee specifying the default alleged and requiring the lessee to cure the default within thirty days of the giving of the notice, and that the lessee has not cured the default within such thirty days,

such lessor or other person may apply, upon affidavit, to a judge for an order declaring the lease void and, if the lease or any assignment or transfer thereof is registered, vacating every such registration. 1962-63, c. 49, s. 2 (1); 1965, c. 43, s. 1 (1).

Notice of  
default

(2) Notice of default under subclause ii of clause *b* of subsection 1 shall be given to the lessee either by delivering it to him, leaving it at his residence or sending it to him by registered mail at his address as indicated in the lease, or at his last known address, but, where an assignment or transfer of the lease has been registered in the registry or land titles office, the notice shall be given to the assignee or transferee, instead of the original lessee, in the manner prescribed in this subsection.

Appointment  
for notice  
into  
default

(3) The judge shall, in writing, appoint a time and place at which he will inquire and determine whether default has been made as alleged.

Service  
of notice  
of inquiry

(4) A notice in writing of the time and place appointed, together with a copy of the affidavit used upon the application, shall be served upon the lessee either by delivering them to him, leaving them at his residence or sending them to him by registered mail at his address as indicated in the lease, or at his last known address, or in such other manner and at such other address as the judge directs, not less than thirty days before the return of the appointment.

Idem

(5) Where an assignment or transfer of the lease has been registered in the registry or land titles office, the appointment shall be served upon the assignee or transferee, instead of the original lessee, in the manner prescribed in subsection 4. 1962-63, c. 49, s. 2 (2-5).

Idem

(6) Where an application is made by a person other than the lessor, the notice and affidavit mentioned in subsection 4 shall be served upon the lessor in the manner mentioned in that subsection. 1965, c. 43, s. 1 (2).

Style of  
proceedings

**3.** The proceedings shall be entitled in the county or district court of the county or district in which the land lies, and shall be styled:

“In the matter of . . . . ., Lessor,  
and . . . . ., Lessee.”

1962-63, c. 49, s. 3.

Where lessee  
fails to  
appear

**4.—(1)** If at the time and place appointed the lessee fails to appear and it appears to the judge,

- (a) that default has been made as indicated in clause *a* of subsection 1 of section 2; or
- (b) that default has been made as indicated in clause *b* of subsection 1 of section 2 and,
  - (i) has continued for a period of two years, or

- (ii) has not been cured within thirty days after the giving of notice under subclause ii of the said clause *b*,

as the case may be, the judge may, notwithstanding any provision in the gas or oil lease requiring the lessor to give notice to the lessee of any default, make an order declaring that the gas or oil lease is void and, if the lease or any assignment or transfer thereof is registered, vacating every such registration.

(2) If the lessee appears, the judge shall, in a summary manner, hear the parties and their witnesses and examine into the matter, and, if it appears to the judge, Where lessee appears

- (a) that default has been made as indicated in clause *a* of subsection 1 of section 2; or
- (b) that default has been made as indicated in clause *b* of subsection 1 of section 2 and,
  - (i) has continued for a period of two years, or
  - (ii) has not been cured within thirty days after the giving of a notice under subclause ii of the said clause *b*,

as the case may be, the judge may, notwithstanding any provision in the gas or oil lease requiring the lessor to give notice to the lessee of any default, make an order declaring that the gas or oil lease is void and, if the lease or any assignment or transfer thereof is registered, vacating every such registration.

(3) Every order shall contain a description of the land affected sufficient to permit registration of the order, and, where the order vacates the registration of a lease or an assignment or transfer thereof, the order shall contain a reference to the registration number of such lease, assignment or transfer. 1962-63, c. 49, s. 4. Description of land

**5.** The judge has the same power to amend or excuse irregularities in the proceedings as he has in an action. 1962-63, c. 49, s. 5. Irregularities in procedure

**6.** The judge, upon the hearing of the application, shall not take into account, Subsequent drilling, etc., not to be taken into account

- (a) any drilling done or sought to be done after the making of the application;
- (b) any rentals or other remuneration tendered after the making of the application; or
- (c) any other attempt, made after the making of the application, to cure a default,

unless such drilling, tender or other action is agreed to or accepted by the lessor. 1962-63, c. 49, s. 6; 1965, c. 43, s. 2.



Appeal

**7.** An appeal lies to the Court of Appeal from the order of the judge granting or refusing an order under section 4. 1962-63, c. 49, s. 7.

Registration  
of order

**8.** Any order made under section 4, or a copy thereof certified by the clerk of the court under the seal of the court, may be registered in the proper registry or land titles office. 1962-63, c. 49, s. 8.

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## CHAPTER 189

**The Gasoline Handling Act****1. In this Act and in the regulations,**Interpre-  
tation

- (a) “associated product” means any product of petroleum, other than gasoline, wax and asphalt;
- (b) “bulk plant” means one or more storage tanks, including the appurtenances thereof, where gasoline or an associated product is received by pipe line, tank vessel, tank car or tank vehicle and is stored in bulk for subsequent transmission by pipe line or transportation or distribution by tank vessel, tank car or tank vehicle;
- (c) “consumer outlet” means any premises at which gasoline or an associated product of the operator of the outlet is put into the fuel tanks of motor vehicles used by the operator of the outlet or into portable containers used by the operator of the outlet;
- (d) “equipment” means equipment used or to be used in the handling of gasoline or an associated product;
- (e) “flash point” means the lowest temperature, determined by using a Tagliabue closed-cup tester, at which the vapour of a product of petroleum forms a flammable mixture in air;
- (f) “gasoline” means a product of petroleum that has a flash point below 73°F. and that is designed for use in an internal combustion engine;
- (g) “handling ” means the storing, transmitting, transporting or distributing of gasoline or an associated product, and includes putting gasoline or an associated product into the fuel tank of a motor vehicle, motor boat or other water craft or into a container;
- (h) “inspector” means an inspector authorized to enforce this Act;
- (i) “marina” means any premises at which gasoline or an associated product is sold and is put into the fuel tanks of motor boats and other water craft or into portable containers;
- (j) “Minister” means the Minister of Labour;
- (k) “portable container” means a container that has a capacity of ten gallons or less, that is designed, manufactured and used or to be used for the storage or conveyance of gasoline or an associated product;

- (*l*) “regulation” means a regulation made under the authority of this Act;
- (*m*) “service station” means any premises at which gasoline or an associated product is sold and is put into the fuel tanks of motor vehicles or into portable containers;
- (*n*) “transport” means to convey in or on a vehicle gasoline or an associated product, exclusive of the fuel carried for use in the vehicle, and “transporting” and “transportation” have corresponding meanings. 1968-69, c. 41, s. 1; 1970, c. 117, s. 1.

Gasoline  
handling  
equipment  
must be  
approved

**2.** No person shall,

- (*a*) offer for sale or sell;
- (*b*) install; or
- (*c*) use in a service station, consumer outlet, marina or bulk plant,

any equipment that is not approved by the Minister pursuant to the regulations. 1968-69, c. 41, s. 2.

Containers  
must be  
approved

**3.** In a service station, consumer outlet, marina or bulk plant, no person shall put gasoline or an associated product having a flash point below 73°F. into any container of a type that is not approved by the Minister pursuant to the regulations. 1968-69, c. 41, s. 3.

Approval of  
specifica-  
tions for  
equipment

**4.** The Minister may establish or approve specifications or test reports for equipment and designate organizations to test equipment in accordance with such requirements. 1968-69, c. 41, s. 4.

Equipment  
must  
comply  
with  
regulations

**5.** All equipment shall be installed, tested, operated or used in accordance with the regulations. 1968-69, c. 41, s. 5.

Licence  
required  
to operate  
service  
station, etc.

**6.—(1)** No person shall,

- (*a*) operate a service station;
- (*b*) operate a marina;
- (*c*) operate a bulk plant; or
- (*d*) transport gasoline or an associated product,

unless licensed to do so by the Minister.

Cancell-  
ation,  
suspension  
of licence

(2) The Minister may refuse to issue a licence under this Act to any person and may cancel or suspend any licence issued under this Act where the applicant or licensee, as the case may be, has contravened or failed to comply with any provision of this Act or the regulations. 1968-69, c. 41, s. 6.

**7.** Every person who employs another person in the handling of gasoline or an associated product or in the installing of equipment shall take every precaution that is reasonable in the circumstances to ensure that his employees comply with this Act and the regulations. 1968-69, c. 41, s. 7.

Employers  
must take  
reasonable  
precautions

**8.**—(1) Every inspector appointed for the purposes of *The Energy Act* is authorized to enforce this Act.

Inspectors  
R.S.O. 1970,  
c. 148

(2) Every inspector may, for the purposes of this Act and the regulations,

- (a) enter any premises where he has reason to believe there has been, are or may be hazardous conditions relative to gasoline or an associated product;
- (b) make such inspections, tests and inquiries as are necessary to ascertain whether this Act and the regulations are being complied with;
- (c) take samples of any liquid that he has reason to believe is or may contain gasoline or an associated product; and
- (d) require the production of any licence or other document prescribed by a regulation, and examine and copy it.

(3) An inspector may give instructions orally or in writing to any person with respect to any matter in order to bring about compliance with this Act and the regulations and may require that his instructions be carried out within such time as he specifies.

Instructions

(4) Where a person to whom an inspector gives oral instructions requests the inspector to put his instructions in writing, he shall do so.

Idem

(5) The occupant of any premises and his servants, agents and employees shall give reasonable assistance to an inspector in the exercise of his powers under this Act.

Duty to  
assist  
inspector

(6) No inspector is personally liable for anything done by him in the exercise of his powers under this Act. 1968-69, c. 41, s. 8.

No personal  
liability

**9.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) appointing such persons or classes of persons as may be necessary to assist in the enforcement of this Act and the regulations;
- (b) exempting any person or class of persons from this Act or the regulations or any of the provisions thereof;
- (c) exempting any equipment or any class of equipment from this Act or the regulations or any of the provisions thereof;



- (d) respecting the term, issue, renewal and posting of licences and prescribing the fees therefor;
- (e) designating organizations to test equipment to specifications established or approved by the Minister and, where the equipment conforms to the specifications, to place their label thereon;
- (f) prescribing procedures for installing, testing, operating and using equipment;
- (g) respecting the approval by the Minister of equipment or any type thereof;
- (h) prescribing grades of gasoline and associated products, and providing for the identification thereof;
- (i) prescribing forms and providing for their use;
- (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1968-69, c. 41, s. 9.

Act  
prevails  
over  
by-laws

**10.** This Act and the regulations prevail over any municipal by-law. 1968-69, c. 41, s. 10.

Offences  
and  
penalties

**11.** Every person who,

- (a) contravenes or fails to comply with any provision of this Act or the regulations;
- (b) knowingly makes a false statement in any document prescribed by the regulations; or
- (c) fails to carry out the instructions of an inspector,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both. 1968-69, c. 41, s. 11.

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## CHAPTER 190

**The Gasoline Tax Act****1.** In this Act,Interpre-  
tation

- (a) “aviation fuel” includes any gas or liquid that is sold to be used or is used to create power to propel an aircraft and any product that is designated to be aviation fuel by the regulations;
- (b) “gasoline” includes any gas or liquid produced, prepared or compounded for the purpose of generating power by means of internal combustion or that may be used for such purpose, but does not include aviation fuel or the products commonly known as fuel oil, coal oil or kerosene, or such products as are excluded from this Act by the regulations, except when any such product is mixed or combined with gasoline;
- (c) “Minister” means the Minister of Revenue;
- (d) “purchaser” means any person purchasing or receiving delivery in Ontario of gasoline or aviation fuel for his own use;
- (e) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 162, s. 1; 1962-63, c. 51, s. 1.

**2.—**(1) Every purchaser of gasoline shall pay to the Minister for use of the Crown in right of Ontario a charge or tax at the rate of 18 cents per imperial gallon on all gasoline purchased or delivery of which is received by him. R.S.O. 1960, c. 162, s. 2; 1968, c. 47, s. 1 (1). Tax payable by purchaser

(2) Every purchaser of aviation fuel shall pay to the Minister for the use of the Crown in right of Ontario a charge or tax at the rate of 3 cents per imperial gallon on all aviation fuel purchased or the delivery of which is received by him. 1962-63, c. 51, s. 2; 1968, c. 47, s. 1 (2). Tax on aviation fuel

**3.** The Lieutenant Governor in Council may make regula- Regulations  
tions,

- (a) providing for the collection of the charge or tax imposed by this Act and designating the persons by whom it shall be collected;
- (b) prescribing the remuneration to be paid to persons charged with the collection of the charge or tax imposed by this Act;

- (c) requiring the furnishing of surety bonds by persons charged with the collection of the charge or tax imposed by this Act and prescribing the form and amount of such bonds;
- (d) providing for the accounting for and paying over of any sums of money collected by or payable to the persons charged with the collection of the charge or tax imposed by this Act and regulating the time and manner of such accounting and payment;
- (e) prescribing the returns and statements to be made by importers, manufacturers, vendors and purchasers of gasoline or aviation fuel, the information to be given in such returns and statements and by whom and in what manner they shall be made;
- (f) excluding products from this Act;
- (g) designating products to be aviation fuel;
- (h) exempting any class of persons from the payment of the charge or tax imposed by this Act;
- (i) providing for the refund of the charge or tax paid under this Act, or any portion thereof, to any purchaser or class of purchasers and prescribing the records and material to be furnished upon any application for a refund;
- (j) providing for the appointment of such inspectors, officers and other persons as may be necessary for the proper carrying out of this Act and the regulations;
- (k) providing for the holding of inquiries into the operation of this Act and into any charge or complaint that any person has contravened any provision of this Act or the regulations, or has made any false statement in any return or statement required to be made by this Act or the regulations, or into any other matter arising in the administration of this Act, and providing that the person holding such inquiry shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act* including the power to take evidence under oath;
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 162, s. 3; 1962-63, c. 51, s. 3.

R.S.O. 1970,  
c. 379

False  
returns

**4.** Every person charged with the collection of the charge or tax imposed by this Act and every officer, agent or employee of every such person who signs any return or statement required by this Act or the regulations, containing any false statement, is guilty of an offence and on summary conviction is liable for a first

offence to a fine of not less than \$500 and not more than \$5,000 or to a term of imprisonment of not less than six months and not more than three years, or to both, and for any subsequent offence to a fine of not less than \$1,000 and not more than \$10,000 or to a term of imprisonment of not less than one year and not more than seven years, or to both. R.S.O. 1960, c. 162, s. 4.

**5.** Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$25 and not more than \$100 or to a term of imprisonment of not less than ten days and not more than thirty days, or to both, and for any subsequent offence to a fine of not less than \$100 and not more than \$500 or to a term of imprisonment of not less than thirty days and not more than six months, or to both. R.S.O. 1960, c. 162, s. 5.

General  
penalty

**6.**—(1) Subject to subsection 2, no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act. 1964, c. 36, s. 2, *part*.

Information  
to be secret

(2) The Minister may,

- (a) communicate or allow to be communicated information obtained under this Act; or
- (b) allow inspection of or access to any written statement furnished under this Act,

Communica-  
tion of  
information  
to other  
jurisdictions

to or by any person employed by the Government of Canada or any province of Canada provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax. 1964, c. 36, s. 2, *part, amended*.

(3) Every person who contravenes this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 162, s. 6 (2).

Offence

**7.** Any information with respect to any contravention of this Act or the regulations may be laid within three years from the time when the matter of such information arose, and not afterwards. R.S.O. 1960, c. 162, s. 7.

Information  
to be laid  
within  
three years

**8.** The fines imposed by this Act are payable to the Minister. R.S.O. 1960, c. 162, s. 8.

Disposition  
of penalties





## CHAPTER 191

## The General Sessions Act

- 1.** In this Act,
- (a) “chief judge” means the Chief Judge of the County and District Courts;
  - (b) “court” means a court of general sessions of the peace. 1961-62, c. 50, s. 1.
- 2.** The courts of general sessions of the peace have jurisdiction to try all criminal offences except the offences mentioned in subsection 2 of section 413 of the *Criminal Code* (Canada). R.S.O. 1960, c. 163, s. 2. Interpretation  
1953-54,  
c. 51 (Can.)
- 3.** In each year the sittings of each court of general sessions of the peace shall be held at such time or times as is ordered by the chief judge, and the order of the chief judge shall be deemed to be a regulation to which *The Regulations Act* applies. 1970, c. 99, s. 1. Sittings  
R.S.O. 1970,  
c. 410
- 4.** In any county, two or more concurrent sittings of the court may be held for the trial of cases with or without a jury and the hearing of appeals. R.S.O. 1960, c. 163, s. 4. Concurrent  
sittings
- 5.** The sittings of the court shall be held in the county town of the county, unless the chief judge authorizes the holding of the sittings at some other place in the county. R.S.O. 1960, c. 163, s. 5; 1961-62, c. 50, s. 2. Place of  
sittings
- 6.** In the provisional judicial districts, sittings of the court shall be held at the same time and place as the sittings of the district courts for the trial of issues of fact and assessment of damages with or without a jury. R.S.O. 1960, c. 163, s. 6. Sittings in  
provisional  
judicial  
districts
- 7.** The judge of the county or district court, as the case may be, or a junior or an acting judge shall be the chairman of the court and shall preside at the sittings thereof. R.S.O. 1960, c. 163, s. 7. Who may  
preside
- 8.** Where a judge is present, it is not necessary in order to constitute the court that a justice of the peace be present. R.S.O. 1960, c. 163, s. 8. Presence of  
justice  
unnecessary

Adjourn-  
ment of  
sittings

**9.**—(1) Where a judge is unable to hold the sittings at the time appointed, the sheriff or his deputy may, by proclamation, adjourn the court to any hour on the following day to be by him named, and so from day to day until a judge is able to hold the court or until he receives other directions from the judge or from the chief judge. R.S.O. 1960, c. 163, s. 9 (1); 1961-62, c. 50, s. 4, *part.*

Notice

(2) The sheriff shall forthwith give notice of such adjournment to the chief judge. R.S.O. 1960, c. 163, s. 9 (2); 1961-62, c. 50, s. 4, *part.*

Rules, fees,  
forms

**10.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may,

- (a) make rules for regulating the practice and procedure in the county and district courts;
  - (b) make rules and regulations regulating and fixing all fees payable to the Crown in respect of proceedings in such courts;
  - (c) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;
  - (d) prescribe forms for use in such courts. R.S.O. 1960, c. 163, s. 10.
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## CHAPTER 192

## The General Welfare Assistance Act

## 1. In this Act,

Interpre-  
tation

- (a) “applicant” means a person who applies or on whose behalf an application is made for assistance;
- (b) “assistance” means assistance of a class provided under this Act and the regulations;
- (c) “Director” means the Director of the General Welfare Assistance Branch of the Department of Social and Family Services;
- (d) “field worker” means a person employed as such by the Department of Social and Family Services or any other employee of the Department whom the Minister designates as such;
- (e) “Minister” means the Minister of Social and Family Services;
- (f) “municipal welfare administrator” means a person appointed as such for the purposes of this Act;
- (g) “municipality” means a city, separated town, town, village, township or improvement district, and, where the council of a county has appointed a municipal welfare administrator under subsection 3 of section 4, means the county together with any municipality that forms part of the county for the purpose of the administration of assistance;
- (h) “recipient” means a person to whom assistance is provided;
- (i) “recipient of a governmental benefit” means a person,
  - (i) who is a pensioner under the *Old Age Security Act* (Canada), or R.S.C. 1952,  
c. 200
  - (ii) who is a recipient under *The Blind Persons’ Allowances Act*, or *The Disabled Persons’ Allowances Act*, or R.S.O. 1960,  
cc. 35, 107
  - or
  - (iii) who is a beneficiary under *The Family Benefits Act*, or R.S.O. 1970,  
c. 157
  - or
  - (iv) who is receiving a maintenance allowance under *The Vocational Rehabilitation Services Act*, R.S.O. 1970,  
c. 484

and includes such other classes of persons as the regulations prescribe;



- (j) "regional welfare administrator" means a person employed as such by the Department of Social and Family Services or designated as such by the Minister;
- (k) "regulations" means the regulations made under this Act;
- (l) "supplementary aid" means the assistance that may be paid to a recipient of a governmental benefit;
- (m) "unemployable person" means a person who is certified by a legally qualified medical practitioner as being unable to engage in remunerative employment by reason of physical or mental disability;
- (n) "unemployed person" means a person who is able to engage in remunerative employment and who is not so engaged at the time he makes application for assistance. R.S.O. 1960, c. 164, s. 1; 1962-63, c. 53, s. 1; 1967, c. 31, s. 1, *amended*.

Ontario-  
municipal  
agreements

**2.** The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with any municipality and any municipality may make agreements with the Minister respecting the payment by the Province to the municipality or by the municipality to the Province of contributions to the cost of public works measures undertaken by the municipality or by the Province to relieve unemployment in the municipality. R.S.O. 1960, c. 164, s. 3, *amended*.

Provincial  
adminis-  
tration

**3.** The Director shall exercise general supervision over the administration of this Act and the regulations and shall advise municipal welfare administrators, regional welfare administrators and others as to the manner in which their duties under this Act are to be performed. R.S.O. 1960, c. 164, s. 4 (1).

Appoint-  
ment of  
municipal  
welfare  
administrator  
Duties of  
municipal  
welfare  
administrator

**4.—(1)** The council of a municipality may, with the approval of the Minister, appoint a municipal welfare administrator.

(2) The municipal welfare administrator shall receive applications for assistance and shall determine the eligibility of each applicant for assistance, and, where the applicant is eligible, shall determine the amount of the assistance and direct provision thereof, and he may from time to time vary any amount so determined.

County  
adminis-  
tration

(3) Instead of the municipalities that are within a county for municipal purposes administering assistance independently of one another, the council of the county may, with the approval of the Minister, appoint a municipal welfare administrator to administer assistance in all such municipalities, except that any such municipality that has a population of more than 5,000 according to its last revised assessment roll may, by agreement with the county and with the approval of the Minister, appoint a municipal welfare administrator to administer assistance in that municipality independently of the county.

(4) Any municipality within a county but not forming part of the county for municipal purposes may, with the approval of the council of the county and the Minister, form part of the county for the purpose of the administration of assistance. 1967, c. 31, s. 3.

**5.** The Director, every municipal welfare administrator or any of the assistants of the municipal welfare administrator authorized by the council of the municipality, every regional welfare administrator, every welfare allowances officer and every field worker is, in the performance of his duties under this Act, a commissioner for taking affidavits within the meaning of *The Commissioners for taking Affidavits Act*. 1962-63, c. 53, s. 3.

Idem  
Power to take affidavits

R.S.O. 1970,  
c. 72

**6.—(1)** A municipality shall provide assistance in accordance with the regulations to any person in need who resides in the municipality and who is eligible for such assistance.

Duty of municipalities to provide assistance

(2) A municipality may provide assistance in accordance with the regulations to any other person who resides in the municipality and who is eligible for such assistance. 1967, c. 31, s. 4, *amended*.

Idem

**7.—(1)** There may be paid to any class of municipality prescribed by the regulations out of moneys appropriated therefor by the Legislature grants and subsidies for any of the purposes of this Act in such amounts and under such conditions as the regulations prescribe.

Provincial grants and subsidies to municipalities

(2) There may be paid to any class of municipality prescribed by the regulations and to district welfare administration boards established under *The District Welfare Administration Boards Act* out of moneys appropriated therefor by the Legislature subsidies for the costs of the administration of welfare services as defined in that Act, or of assistance, as the case may be, in such amounts and under such conditions as the regulations prescribe. 1967, c. 31, s. 6, *part*.

Provincial subsidies for costs of administration  
R.S.O. 1970,  
c. 132

**8.** Except in cases of emergency as provided for in the regulations, assistance shall be provided only after the receipt by the municipal welfare administrator or the regional welfare administrator, as the case may be, of an application therefor in the prescribed form. 1967, c. 31, s. 6, *part, amended*.

Applications in prescribed form required

**9.—(1)** In this section, “welfare administrator” means municipal welfare administrator or regional welfare administrator, as the case may be.

Welfare administrator defined

(2) Any applicant or recipient affected by a decision, order or directive made under this Act or the regulations by a welfare administrator, in respect of the payment of a class of assistance prescribed as general in the regulations, may request a hearing

Application for review

R.S.O. 1970,  
c. 157 and review of the decision, order or directive by the board of review appointed under *The Family Benefits Act*.

Provisions  
of  
R.S.O. 1970,  
c. 157  
to apply (3) The provisions of *The Family Benefits Act* relating to the powers, duties and procedures of the board of review appointed under that Act, and relating to procedure on appeals therefrom to the Court of Appeal, apply *mutatis mutandis* to a hearing and review by the board under this Act. 1968, c. 48, s. 1.

Supple-  
mentary  
aid **10.** A municipality or the Province may provide assistance by way of supplementary aid to or on behalf of recipients of governmental benefits. R.S.O. 1960, c. 164, s. 8.

Regulations **11.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing classes of assistance and the items to be included in any such class and the manner of computing the amount or cost thereof and providing for contributions to or reimbursement of sums expended therefor and prescribing the maximum amounts or percentages thereof;
- (b) prescribing classes of persons who are eligible for assistance and fixing standards of eligibility;
- (c) defining persons in need or prescribing classes of such persons;
- (d) defining residence for the purposes of establishing eligibility for assistance, liability to provide assistance, a right to a contribution to the cost of assistance or a right to reimbursement of the whole or any part of the cost of assistance, or for any other purposes of this Act and prescribing the circumstances in which any such definition is applicable;
- (e) supplementing the liabilities mentioned in section 6, prescribing the circumstances under which there is a liability to provide assistance, a right to a contribution or a right to reimbursement and providing procedures therefor and for determining the maximum amounts of percentages thereof;
- (f) prescribing classes of municipalities to which grants or subsidies may be paid by the Province
- (g) prescribing classes of grants and subsidies from the Province, the methods of determining the amounts of any grant or subsidy, providing for the manner in which and the intervals at which payments shall be made, for the suspension or withholding of the grants and subsidies or any part thereof and for making any deductions from any such grant or subsidy;

- (*h*) providing for the recovery by the Province from a municipality of any amounts of assistance paid by the Province for which the municipality is liable or for the recovery by the Province or a municipality from a recipient of assistance or from his estate of amounts of assistance paid by the Province or municipality, and prescribing the circumstances and manner in which any such recovery may be made;
- (*i*) adding to the classes of persons who are recipients of governmental benefits;
- (*j*) providing for the payment of supplementary aid to recipients of governmental benefits, prescribing the circumstances under which and by whom it is payable, and providing for contributions to or reimbursement of amounts expended therefor and prescribing the maximum amounts or percentages thereof;
- (*k*) prescribing the amounts of money that may be paid by the Province in respect of the burial of indigent persons who were residing in territory without municipal organization;
- (*l*) governing the manner of making application for assistance;
- (*m*) providing for the making of investigations for the purposes of this Act of applicants for or recipients of assistance;
- (*n*) prescribing the material or proof of any fact, including evidence under oath, that is to be furnished before assistance is provided or while assistance is being provided;
- (*o*) prescribing the manner in which and the intervals at which assistance is to be provided;
- (*p*) prescribing additional powers and duties of the Director, regional welfare administrators and municipal welfare administrators;
- (*q*) prescribing the records to be kept and the claims and returns to be made to the Minister by municipalities and prescribing the times within which and the manner in which such claims or returns shall be made;
- (*r*) providing for the whole or part of the cost of providing medical and dental services to recipients of assistance and their dependants or any class thereof;
- (*s*) defining expressions for the purposes of the regulations;
- (*t*) prescribing forms and providing for their use;
- (*u*) respecting any matter considered necessary or advisable to carry out the intent and purpose of this Act. R.S.O. 1960, c. 164, s. 9; 1962-63, c. 53, s. 5; 1967, c. 31, s. 7, *amended*.



Inter-  
pretation

**12.**—(1) In this section,

(a) “band”, “council of a band”, “member of a band” and “reserve” have the same meaning as in the *Indian Act* (Canada);

R.S.C. 1952,  
c. 149

(b) “welfare administrator for a band” means a person appointed as such for the purposes of this Act.

Appoint-  
ment of  
welfare ad-  
ministrators  
for Indian  
bands

(2) The council of a band that is approved for the purposes of this Act may, with the approval of the Minister, appoint a member of the band as the welfare administrator for the band.

Provisions  
applicable

(3) The provisions of this Act that apply to a municipal welfare administrator apply *mutatis mutandis* to the welfare administrator for a band. R.S.O. 1960, c. 164, s. 10 (1-3).

County  
adminis-  
tration

(4) A band may, with the approval of the council of a county and the Director, form part of the county for the purpose of the administration of assistance. 1970, c. 89, s. 1.

Duty of  
council of  
bands to  
provide  
assistance

(5) The council of a band that is approved for the purposes of this Act shall provide, in accordance with the regulations, assistance to the members thereof who are persons in need and who reside on the reserve of the band and who are eligible for assistance and may provide assistance to other persons in need who reside on the reserve and who are eligible for assistance if the council of the band approves the provision of assistance to such persons. 1967, c. 31, s. 8 (1).

Supple-  
mentary  
aid

(6) The council of a band that is approved for the purposes of this Act may provide assistance by way of supplementary aid to or on behalf of recipients of governmental benefits who reside on the reserve of the band. R.S.O. 1960, c. 164, s. 10 (5).

Regulations

(7) The Lieutenant Governor in Council may make regulations,

(a) providing for the recovery by the Province from the council of a band of any amounts of assistance paid by the Province for which the council of the band is liable or for recovery by the council of a band from a recipient of assistance paid by the council of the band, and prescribing the circumstances and manner in which any such recovery may be made;

(b) specifying bands that are approved for the purposes of this Act. R.S.O. 1960, c. 164, s. 10 (6), *amended*.

Provincial  
grants and  
subsidies  
to councils  
of bands

(8) There may be paid to the council of a band that is approved for the purposes of this Act, out of moneys appropriated therefor by the Legislature, grants and subsidies for any of the purposes of this Act in such amounts and under such conditions as the regulations prescribe. 1967, c. 31, s. 8 (2).

**13.**—(1) No person shall knowingly obtain or receive assistance that he is not entitled to obtain or receive under this Act and the regulations. Offence

(2) No person shall knowingly aid or abet another person to obtain or receive assistance that such other person is not entitled to obtain or receive under this Act and the regulations. Idem

(3) Every person who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 or to imprisonment for a term of not more than three months, or to both fine and imprisonment. 1962-63, c. 53, s. 7. Idem

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## CHAPTER 193

## The Gold Clauses Act

**1.** Every obligation heretofore or hereafter incurred, and whether it is due, accruing due or past due, that gives or purports to give the obligee a right to require payment in gold or in a particular kind or standard of coin or currency, or in an amount of money of Canada or elsewhere measured in gold or in a particular kind or standard of coin or currency is discharged upon payment, dollar for dollar, in any coin or currency, that at the time of payment is legal tender at the place of payment named in such obligation for public and private debts. R.S.O. 1960, c. 165, s. 1.

Discharge  
of obliga-  
tions

**2.** Notwithstanding that any obligation heretofore or hereafter incurred, whether it is due, accruing due or past due, gives or purports to give the obligee the right to require payment in gold or in a particular kind or standard of coin or currency, or in an amount of money of Canada or elsewhere measured in gold or in a particular kind or standard of coin or currency, no action shall be brought or maintained to enforce such obligation or to enforce any judgment obtained outside Ontario based on any such obligation, except to the amount of the face value of such obligation, dollar for dollar, in any coin or currency that at the time of payment is legal tender at the place of payment named in such obligation for public and private debts. R.S.O. 1960, c. 165, s. 2.

No action  
to be  
brought

**3.** This Act applies to all obligations governed by the law of Ontario, including obligations of the Crown. R.S.O. 1960, c. 165, s. 3.

Scope of  
Act

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## CHAPTER 194

**The Government Contracts Hours and Wages Act****1.** In this Act,

Interpretation

- (a) “fair wages” means such wages as are generally accepted as current for competent workmen in the locality in which the work is being performed for the character or class of work in which such workmen are respectively engaged, but shall in all cases be such wages as are fair and reasonable;
- (b) “Government of Ontario” includes every department thereof and every commission or board created by any Act of the Legislature;
- (c) “Minister” means the Minister of Labour or such other member of the Executive Council as is for the time being charged with the administration of this Act;
- (d) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 166, s. 1.

**2.—**(1) Every contract entered into with the Government of Ontario for the construction, remodelling, renewal, repair or demolition of any building or work is subject to the following conditions respecting wages and hours:

Government contracts for work subject to certain conditions

- 1. All persons in the employ of the contractor, subcontractor or any other person doing or contracting to do the whole or any part of the work contemplated by the contract shall during the continuance of the work be paid fair wages.
- 2. The working hours of persons while so employed shall not exceed eight hours per day or forty-four hours per week, except in such special cases as the Lieutenant Governor in Council otherwise provides, or except in such cases of emergency as may be approved by the Minister.

(2) This section does not apply to the purchase of materials, supplies or equipment for use in the work contemplated under any contract of sale and purchase. R.S.O. 1960, c. 166, s. 2.

Exception

**3.—**(1) Where a grant or payment of any public moneys of Ontario is authorized or made by way of contribution, subsidy, loan, advance or guarantee for or in aid of the construction,

Wages and hours where Government aid granted

remodelling, renewal, repair or demolition of any building or work, whether the grant or payment is to be received by any municipal or other body or person whatever, the wages and hours of all workmen employed on the work shall be those set forth in subsection 1 of section 2.

Exception (2) This section does not apply to the purchase of materials, supplies or equipment for use in the work contemplated under any contract of sale and purchase. R.S.O. 1960, c. 166, s. 3.

Offences. **4.** Every contractor, subcontractor and municipal or other body and every person who is responsible, directly or indirectly, for the payment of wages, who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1960, c. 166, s. 4 (1).

Regulations **5.** The Lieutenant Governor in Council may make regulations providing for,

- (a) the method of determining what are fair wages and the preparation and use of schedules of rates relating thereto;
- (b) rates of wages for overtime;
- (c) classification of employment or work;
- (d) the persons or classes of persons who may be employed in the performance of any work mentioned in this Act;
- (e) the publication and posting of wage schedules;
- (f) the payment of wages to employees in case of default by the contractor or other party charged with the payment and recovery thereof from the contractor or other party;
- (g) the keeping of proper books and records and the examination and inspection thereof;
- (h) the furnishing of such information as is required by the Minister to ensure compliance with this Act;
- (i) any matter necessary or advisable to carry out effectively the intent and purpose of this Act and the regulations. R.S.O. 1960, c. 166, s. 5.

Act to be subject to provisions of R.S.O. 1970, cc. 221, 147, 394

**6.** This Act and the regulations shall be read and construed subject to *The Industrial Standards Act*, Part IV of *The Employment Standards Act* and *The Public Works Creditors Payment Act* and any regulations and schedules made thereunder. R.S.O. 1960, c. 166, s. 6, *amended*.

## CHAPTER 195

## The Grain Elevator Storage Act

**1.** In this Act,Interpre-  
tation

- (a) “chief inspector” means the chief inspector appointed under this Act;
- (b) “farm produce” means beans, cereal grains, corn or grass seeds produced in Ontario;
- (c) “grain elevator” means any premises on which farm produce is stored;
- (d) “grain elevator operator” means a person who receives or offers to receive farm produce for storage;
- (e) “grain storage receipt” means a receipt in the form prescribed by the regulations and issued by a grain elevator operator in respect of farm produce in storage;
- (f) “regulations” means the regulations made under this Act;
- (g) “stored”, when used with respect to farm produce, means delivered to a grain elevator upon terms that the ownership is to remain in the deliverer, and “storage” has a corresponding meaning;
- (h) “weigh-ticket” means a receipt issued by a grain elevator operator to a producer in the form prescribed by the regulations. R.S.O. 1960, c. 167, s. 1.

**2.**—(1) Subject to an agreement in writing to the contrary, where farm produce is delivered to an elevator and a grain storage receipt is issued, the delivery of the farm produce shall be deemed to be for storage. Delivery  
for  
storage

(2) A grain elevator operator shall not issue a grain storage receipt for grain delivered upon terms other than for storage unless he marks on the receipt in bold print that the receipt is not a grain storage receipt under this Act. Receipt  
where grain  
not for  
storage R.S.O. 1960, c. 167, s. 2.

**3.** A contract for the sale of farm produce to the operator of the grain elevator in which it is stored is not enforceable by action unless the contract is written on the grain storage receipt issued for the farm produce and signed by the parties. Contract for  
sale to be  
written R.S.O. 1960, c. 167, s. 3.



Storage  
charges

**4.** Unless it is agreed in writing to the contrary, farm produce stored in a grain elevator is not subject to any lien, charge or set-off other than for storage charges in respect of the farm produce. R.S.O. 1960, c. 167, s. 4.

R.S.O. 1970,  
c. 156 s. 2,  
not to apply

**5.** Section 2 of *The Factors Act* does not apply to farm produce in possession of a grain elevator operator for storage, or to a document of title thereto. R.S.O. 1960, c. 167, s. 5.

Appoint-  
ment of  
chief  
inspector  
and  
inspectors

**6.** The Lieutenant Governor in Council may appoint a chief inspector to administer and enforce this Act, and may appoint one or more inspectors who shall carry out such duties as are assigned to them by this Act or the regulations or the chief inspector. R.S.O. 1960, c. 167, s. 6.

Grain  
elevator  
operator's  
licence

**7.—(1)** No person shall receive or offer to receive farm produce for storage at a grain elevator without a licence as a grain elevator operator issued by the chief inspector in respect of the grain elevator.

Conditions  
of licence

**(2)** The chief inspector may refuse to grant a licence where the applicant is not qualified by experience, financial responsibility or equipment to engage properly in the business of a grain elevator operator.

Suspension,  
revocation  
or non-  
renewal  
of licence

**(3)** The chief inspector may suspend, revoke or refuse to renew a licence for failure to carry out the provisions of this Act or the regulations, or for failure to provide promptly and accurately a grain storage receipt to a producer from whom the grain elevator operator received farm produce for storage. R.S.O. 1960, c. 167, s. 7.

Duties of  
chief  
inspector

**8.** Where the chief inspector suspends, revokes or fails to renew the licence of a grain elevator operator, the chief inspector may perform such services and do such acts as he considers necessary to protect the property of the producers of farm produce received for storage at the grain elevator. R.S.O. 1960, c. 167, s. 8.

Grain  
storage  
receipt

**9.—(1)** Upon delivery of farm produce for storage, the grain elevator operator shall issue a grain storage receipt.

Not more  
than one  
receipt

**(2)** No person shall issue or receive more than one grain storage receipt in respect of the same farm produce. R.S.O. 1960, c. 167, s. 9.

Weigh-  
ticket

**10.—(1)** Where a producer delivers for storage farm produce in more than one delivery, the grain elevator operator shall, for each delivery, issue to the producer a weigh-ticket.

(2) Where a grain elevator operator issues weigh-tickets under subsection 1, he shall issue a grain storage receipt immediately after the last delivery of the farm produce and upon the surrender of the weigh-tickets, but in no case later than ten days from the date of issue of the weigh-ticket first issued. R.S.O. 1960, c. 167, s. 10.

Surrender of  
weigh-  
tickets  
for receipt

**11.**—(1) Every grain elevator operator shall keep copies of all weigh-tickets issued to each producer in a separate account kept for that purpose only, until he issues grain storage receipts for the full amount of the weigh-tickets.

Copies of  
weigh-  
tickets

(2) No person shall issue a grain storage receipt or weigh-ticket without making and keeping a complete record of the matters recorded thereon. R.S.O. 1960, c. 167, s. 11.

Records

**12.**—(1) No person shall sign a grain storage receipt on behalf of a grain elevator operator except a person designated by him.

Signing of  
receipts

(2) A grain elevator operator shall report promptly to the chief inspector the name and address of any person designated by him to sign receipts. R.S.O. 1960, c. 167, s. 12.

Report to  
chief  
inspector

**13.**—(1) Every licensed grain elevator operator shall insure with an insurer licensed under *The Insurance Act* all farm produce stored by him for which grain storage receipts and weigh-tickets have been issued, against loss or damage by fire, lightning, explosion occurring on the grain elevator premises, windstorm and hail, to the full market value of the farm produce in storage.

Insurance  
R.S.O. 1970,  
c. 224

(2) Every contract of insurance in which the coverage referred to in subsection 1 is included shall provide that payment thereunder shall not be made without the consent of the chief inspector. R.S.O. 1960, c. 167, s. 13.

Payment of  
insurance

**14.** Every grain elevator operator shall furnish to the chief inspector in such form and at such times as he requires a statement showing the full market value of farm produce in storage at his grain elevator and the particulars of insurance under section 13. R.S.O. 1960, c. 167, s. 14.

Operator to  
supply  
particulars  
of insurance

**15.**—(1) Subject to subsection 2, no grain elevator operator shall receive for storage any amount of farm produce greater than the storage capacity of his grain elevator.

Storage not  
to exceed  
capacity

(2) A grain elevator operator may, under *bona fide* contract for storage facilities at the grain elevators of other grain elevator operators licensed under this Act or any Act of the Parliament of Canada, or other person on premises acceptable to the chief inspector, store therein farm produce received for storage at his grain elevator. R.S.O. 1960, c. 167, s. 15.

Contract for  
storage in  
another  
elevator

Farm  
produce in  
storage to  
correspond  
to receipts

**16.** Every grain elevator operator shall at all times have in his grain elevator or in other storage under subsection 2 of section 15 such amounts of farm produce of each kind and grade as will at least equal the total amounts of outstanding grain storage receipts and weigh-tickets issued by him. R.S.O. 1960, c. 167, s. 16.

Inspection

**17.**—(1) The chief inspector or an inspector may at any time enter any grain elevator and inspect the grain stored and the books and records pertaining thereto.

Idem

(2) Every person, when requested so to do by the chief inspector or an inspector, shall permit inspection of any premises operated as a grain elevator and shall produce and permit inspection of books and records and supply extracts respecting farm produce in storage.

Idem

(3) No person shall hinder or obstruct the chief inspector or an inspector in the performance of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information. R.S.O. 1960, c. 167, s. 17.

Offence

**18.** Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 for a first offence and to a fine of not more than \$5,000 or to a term of imprisonment of not more than one year for any subsequent offence. R.S.O. 1960, c. 167, s. 18.

Regulations

**19.** The Lieutenant Governor in Council may make regulations,

- (a) providing for the licensing of grain elevator operators;
  - (b) prescribing the duties of the chief inspector and inspectors;
  - (c) prescribing forms and providing for their use;
  - (d) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. R.S.O. 1960, c. 167, s. 19.
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## CHAPTER 196

**The Guarantee Companies Securities  
Act**

- 1.** In this Act, “guarantee company” means a corporation approved by the Lieutenant Governor in Council and empowered to grant guarantees, bonds, policies or contracts for the integrity and fidelity of employed persons, or in respect of any legal proceedings or for other like purposes. R.S.O. 1960, c. 168, s. 1. Interpretation
- 2.** Where a judge, functionary, officer or person is entitled or required to take security by bond with sureties, he may in lieu thereof take the bond, policy or guarantee contract of a guarantee company of the like nature and effect. R.S.O. 1960, c. 168, s. 2. Bonds of guarantee company may be taken by officers and others
- 3.** Where a person is required to give security by bond with sureties, he may in lieu thereof furnish the bond, policy or guarantee contract of a guarantee company of the like nature and effect. R.S.O. 1960, c. 168, s. 3. Persons may give bond of guarantee company
- 4.** The guarantee company shall not be bound or required to justify. R.S.O. 1960, c. 168, s. 4. Justification not required
- 5.** The bond, policy or guarantee contract of a guarantee company may be taken instead of or in substitution for any existing security if the judge, functionary, officer or person mentioned in section 2 so directs. R.S.O. 1960, c. 168, s. 5. Bond of company may be substituted for other bonds
- 6.** The interim receipt of a guarantee company may be accepted in lieu of a bond, policy or guarantee contract, but the latter shall be furnished within one month. R.S.O. 1960, c. 168, s. 6. Interim receipt in lieu of bond
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## CHAPTER 197

### The Habeas Corpus Act

**1.**—(1) Where a person, other than a person imprisoned for debt, or by process in any action, or by the judgment, conviction or order of the Supreme Court, court of general sessions of the peace or other court of record is confined or restrained of his liberty, a judge of the Supreme Court, upon complaint made by or on behalf of the person so confined or restrained, if it appears by affidavit that there is reasonable and probable ground for the complaint, shall award a writ of *habeas corpus ad subjiciendum* directed to the person in whose custody or power the person so confined or restrained is, returnable immediately before the judge so awarding the writ, or before any judge of the Supreme Court or before the Court of Appeal. R.S.O. 1960, c. 169, s. 1 (1).

In what cases *hab. corp. ad subjiciendum* may be awarded, and by whom

(2) Notice in writing of every application for a writ of *habeas corpus ad subjiciendum* shall be given to the Minister of Justice and Attorney General at least forty-eight hours before the making of the application and the Minister of Justice and Attorney General is entitled as of right to be heard either in person or by counsel upon the application. R.S.O. 1960, c. 169, s. 1 (2), *amended*.

Notice of application for writ of *habeas corpus*

(3) Instead of awarding the writ, the judge before whom the application is made may direct that the motion for the writ be adjourned to be heard before the Court of Appeal. R.S.O. 1960, c. 169, s. 1 (3).

Order adjourning motion for writ

(4) Subsection 3 is repealed on a day to be named by the Lieutenant Governor by his proclamation. 1970, c. 102, s. 4.

Repeal of subs. 3

**2.** The writ may be served either personally by actual delivery thereof to the person to whom it is directed or by leaving it with his servant or agent at the place where the person is so confined or restrained. R.S.O. 1960, c. 169, s. 2.

Service of writ

**3.** If the person to whom the writ is directed wilfully neglects or refuses to make a return or pay obedience thereto, he shall be deemed guilty of contempt of court, and the court or judge, upon proof by affidavit of such wilful neglect, refusal or disobedience, may issue a warrant for apprehending and bringing him before the court or judge to the end that he may be bound to Her Majesty with two sufficient sureties in such sum as in the warrant is expressed, conditioned that he will appear on the day named in the warrant to answer the matter of the contempt. R.S.O. 1960, c. 169, s. 3.

Disobedience of writ

Committal

4. In case of neglect or refusal to become bound as aforesaid, the court or judge may commit such person to a correctional institution in the county wherein he resides or may be found, there to remain until he becomes bound as aforesaid or is discharged by order of the court or a judge, and, if he becomes bound, the recognizance shall be returned and filed and continues in force until the matter of the contempt has been heard and determined, unless sooner ordered by the court or judge to be discharged. R.S.O. 1960, c. 169, s. 4, *amended*.

Issue of writ of *certiorari*

5. Where a writ of *habeas corpus* is issued under the authority of this Act or otherwise, the court or judge may direct the issue of a writ of *certiorari* directed to the person by whom or by whose authority any person is confined or restrained of his liberty, or other person having his custody or control, requiring him to certify and return to the court or judge as by the writ may be provided, all the evidence, depositions, conviction and all proceedings had or taken, touching or concerning such confinement or restraint of liberty. R.S.O. 1960, c. 169, s. 5.

Procedure on return of writ

6. When upon a return to a writ of *habeas corpus* it is alleged that the person is detained by reason of a conviction or order other than a conviction or order of the Supreme Court or other court of record upon the return of the writ of *certiorari*, it is the duty of the court or judge to examine and consider the proceedings had and taken to ascertain if the proceedings show that the person restrained has been convicted of any offence against the law and that there is any evidence to sustain the conviction, or that upon the evidence the person accused is guilty of an offence against the law and that the conviction, though irregular, ought to be amended or drawn so as to duly describe the offence of which the person accused is guilty, and in such cases to remand the person detained to custody but otherwise to order his discharge. R.S.O. 1960, c. 169, s. 6.

Proceedings for inquiring into the truth of the matters alleged in the return

7. Although the return to a writ of *habeas corpus* is good and sufficient in law, the court or judge before whom the writ is returnable may examine into the truth of the facts set forth in the return, by affidavit or other evidence, and may order and determine touching the discharging, bailing or remanding the person. R.S.O. 1960, c. 169, s. 7.

Appeal from remand to custody

8.—(1) Where a person confined or restrained of his liberty is brought before a judge upon a writ of *habeas corpus* and is remanded into custody upon the original order or warrant of commitment or by virtue of any warrant, order or rule of such judge, such person may appeal from the decision or judgment of the judge to the Court of Appeal, and thereupon the writ of *habeas corpus*, the return thereto, and the affidavits, depositions, evi-

dence, conviction and other proceedings shall be certified by the proper officer to the Court of Appeal.

(2) The Court of Appeal shall thereupon hear and determine the appeal without formal pleadings and, if the court determines that the confinement or restraint is illegal, shall so certify to the person having the custody or charge of the person so confined or restrained, and shall order his immediate discharge, and he shall be discharged accordingly. R.S.O. 1960, c. 169, s. 8. Court may order discharge

**9.**—(1) An appellant under section 8 may appeal from the decision of the Divisional Court to the Court of Appeal. 1970, c. 102, s. 3. Appeal to Court of Appeal

(2) Subsection 1 does not come into force until a day to be named by the Lieutenant Governor by his proclamation. 1970, c. 102, s. 4. Commencement of subs. 1

**10.** This Act extends to all writs of *habeas corpus* awarded in pursuance of the Act passed in England in the 31st year of the reign of King Charles the Second, commonly called *The Habeas Corpus Act*, or otherwise in as ample and beneficial a manner as if such writs and the cases arising thereon had been specially named and provided for in this Act. R.S.O. 1960, c. 169, s. 9. Application of Act

**11.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make such rules of practice in reference to the proceedings on writs of *habeas corpus* as seem necessary or expedient. R.S.O. 1960, c. 169, s. 10. Power to make rules

**12.**—(1) Subsection 1 of section 1 is amended by striking out “or before the Court of Appeal” in the twelfth and thirteenth lines. 1970, c. 102, s. 1 (1). Amendment to s. 1, subs. 1

(2) Subsection 1 of section 8 is amended by striking out “Court of Appeal” in the sixth line and in the ninth line, and inserting in lieu thereof in each instance “Divisional Court”. 1970, c. 102, s. 2 (1). Amendment to s. 8, subs. 1

(3) Subsection 2 of section 8 is amended by striking out “Court of Appeal” in the first line and inserting in lieu thereof “Divisional Court”. 1970, c. 102, s. 2 (2). Amendment to s. 8, subs. 2

(4) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. 1970, c. 102, s. 4. Commencement of section





## CHAPTER 198

## The Haliburton Act

- 1.** Except where otherwise provided in this Act, the Provisional County of Haliburton and the corporation and council thereof have and possess respectively all the rights, powers, liabilities and incidents of a county, county corporation and county council, and, except where inconsistent with this Act, the law and the statutes applicable to counties, county corporations and county councils, and the members of such councils, apply. R.S.O. 1960, c. 170, s. 1. Rights, liabilities and powers of the Provisional County corporation and council
- 2.** No by-law for granting aid to a railway company is valid unless within three months from its passing it is approved by the Lieutenant Governor in Council. R.S.O. 1960, c. 170, s. 2. By-laws in aid of railways
- 3.** The meetings of the council shall be held at the place in the county where the registry office is kept. R.S.O. 1960, c. 170, s. 3. Meetings of council
- 4.** For judicial purposes, including the holding of courts, the officers of such courts, judicial process and proceedings, and the selection of jurors, the Provisional County is united to and forms part of the County of Victoria. R.S.O. 1960, c. 170, s. 4. County to form part of Victoria for judicial purposes
- 5.** The justices of the peace appointed for the Provisional County are entitled to sit in the general sessions held for the County of Victoria. R.S.O. 1960, c. 170, s. 5. Justices of the peace
- 6.** Where an appeal lies from the decision of a justice or justices of the peace to the general sessions of the peace, the appeal in a case arising in the Provisional County lies to and may be heard and determined by the Court of General Sessions of the Peace for the County of Victoria. R.S.O. 1960, c. 170, s. 6. Appeal from decisions of justices of the peace
- 7.** All returns of convictions required by law to be made by a justice of the peace for the Provisional County shall be made to the clerk of the peace for the County of Victoria. R.S.O. 1960, c. 170, s. 7. Returns of convictions
- 8.** The Lieutenant Governor in Council may from time to time direct that one or more suitable jails or lock-ups shall be provided by the Minister of Public Works in the Provisional County out of money appropriated for that purpose. R.S.O. 1960, c. 170, s. 8. Erection of jails

Jails in  
Haliburton  
to be  
common  
jails of  
Haliburton  
and Victoria

**9.** Every jail and lock-up erected under the authority of the Lieutenant Governor in Council is a common jail of the Provisional County and of the County of Victoria for the safe custody of persons charged with the commission, within the Provisional County, of crimes, or with the commission therein of offences against any statute of Ontario or against any municipal by-law, who may not have been finally committed for trial, and for the safe custody of such persons when finally committed for trial until removed to the common jail at Lindsay, and for the confinement of persons sentenced within the Provisional County for such crimes or offences for periods not exceeding one month, and for the confinement of persons so sentenced for periods exceeding one month until such persons can be conveniently removed to the common jail at Lindsay, or other lawful prison to which they are sentenced. R.S.O. 1960, c. 170, s. 9.

Power to  
commit to  
the jail at  
Lindsay

**10.** Nothing in section 9 prevents any court or justice of the peace from directing the committal to the common jail at Lindsay, either for safe custody or for punishment, of any person whom it is considered expedient to commit thereto. R.S.O. 1960, c. 170, s. 10.

Appoint-  
ment and  
salary of  
jailer

**11.** The Lieutenant Governor in Council may appoint the jailer, jail surgeon and other jail employees for the Provisional County, and fix their salaries which shall be paid by the Provisional County. R.S.O. 1960, c. 170, s. 11.

To whom  
appeal lies

**12.—(1)** An appeal lies from the decision of the Assessment Review Court of any municipality in the Provisional County to the judge of the county court of the County of Victoria.

Application  
R.S.O. 1970,  
c. 32

**(2)** The provisions of *The Assessment Act* with respect to appeals from the judge of the county court to the Ontario Municipal Board apply to the Provisional County. R.S.O. 1960, c. 170, s. 13, *amended*.

Registry  
office

**13.** The registrar of deeds shall keep his office in a place to be named for that purpose in his commission, or at such other place as is appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 170, s. 14.

Aid to grist  
mills by  
taking stock  
or lending  
money  
R.S.O. 1970,  
c. 284

**14.—(1)** In addition to the powers conferred by *The Municipal Act*, the council of a township or village in the Provisional County may pass by-laws for,

- (a) granting aid to or for promoting the establishment of a grist mill in the township or village;
- (b) taking stock in any company incorporated for establishing a grist mill in the township or village; or
- (c) lending money to any such company.

(2) The aid to be granted, the stock to be taken and the money to be lent under subsection 1 shall not in all exceed one-half of the actual cost of such grist mill or in any case the sum of \$3,000. Limit of aid

(3) Notwithstanding *The Municipal Act*, the vote in the affirmative of two-thirds of the electors actually voting upon any such by-law is necessary and sufficient to the carrying of the by-law. Assent of two-thirds of rate-payers voting

(4) No such by-law shall be passed for or in respect of the establishment of a grist mill in a location less than fifteen miles from a grist mill established in the Provisional County and in operation on the 13th day of April, 1897. Restriction upon power to grant bonus

(5) In case of a dispute as to the result of the vote on any by-law, the judge of the county court of the County of Victoria has the powers conferred by *The Municipal Act* upon the judge of a county court with respect to a scrutiny of the votes of electors upon a by-law. Deciding disputes as to result of vote

(6) The petition to the judge may be by an elector or by the council, and the proceedings for obtaining the judge's decision shall be the same as nearly as may be as in the case of a scrutiny. Proceedings

(7) The council of a municipality taking stock in a company under the authority of this section shall annually, at its first meeting for the year, elect from among its members a representative of such council to the board of directors of the company, and such representative is entitled to sit and vote at all meetings of the board and to vote at all meetings of shareholders in respect of the stock held by the municipality that he represents. Representation of council on board of directors

(8) Except as otherwise provided in this Act, the provisions of *The Municipal Act* as to money by-laws and the obtaining of the assent of the electors thereto apply. R.S.O. 1960, c. 170, s. 15. Application of R.S.O. 1970, c. 284

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## CHAPTER 199

### The Health Insurance Registration Board Act

**1.** In this Act,

- (a) “Board” means the Health Insurance Registration Board;
- (b) “registrar” means the Registrar for Health Insurance. 1967, c. 33, s. 1.

Interpre-  
tation

**2.** The Minister of Health is responsible for the administration of this Act. 1967, c. 33, s. 2.

Administra-  
tion

**3.—(1)** The Health Insurance Registration Board is continued, consisting of,

Health  
Insurance  
Registration  
Board

- (a) the Deputy Minister of Health, who shall be chairman of the Board;
- (b) the chairman of the Ontario Hospital Services Commission, who shall be vice-chairman of the Board; and
- (c) the Executive Director of the Health Services Insurance Division of the Department of Health. 1967, c. 33, s. 2 (1), *amended*.

**(2)** It is the function of the Board and it has power,

Functions  
of Board

- (a) to establish and administer a system to provide for the enrolment and entitlement of persons to coverage for insured services under *The Hospital Services Commission Act* and *The Health Services Insurance Act*, including the collection of premiums and the determination of eligibility;
- (b) to maintain a central registry and records for insured persons under *The Hospital Services Commission Act* and *The Health Services Insurance Act*; and
- (c) to perform such other duties as are assigned to it by any Act. 1967, c. 33, s. 3 (2), *amended*.

R.S.O. 1970,  
cc. 209, 200

**(3)** The Board may contract and may sue and be sued in its own name, and the members thereof are not personally liable upon any contract made by the Board.

Power to  
contract  
and sue

**(4)** The Board may adopt a seal. 1967, c. 33, s. 3 (3, 4).

Seal

- Registrar      **4.** There shall be a Registrar for Health Insurance appointed by the Lieutenant Governor in Council, who shall be the chief executive officer of the Board, and who shall perform such duties as are assigned to him by any Act, under the direction and control of the Board. 1967, c. 33, s. 4.
- Employees      **5.** Such officers and employees as are considered necessary to carry out the duties of the Board shall be appointed under *The Public Service Act*. 1967, c. 33, s. 5.
- R.S.O. 1970,  
c. 386
- Inspections      **6.**—(1) Any person designated in writing by the Registrar may at any time enter the premises of an employer of a mandatory group or a collector under *The Hospital Services Commission Act* or *The Health Services Insurance Act* and inspect the books of account, payroll records and other records for the purpose of obtaining information relating to the membership of the group. 1967, c. 33, s. 6 (1), *amended*.
- R.S.O. 1970,  
cc. 209, 200
- Access for  
inspection      (2) Every person, when requested to do so by a person designated under subsection 1, shall produce and permit inspection of the accounts and records and supply extracts therefrom.
- Obstruction  
of inspector      (3) No person shall hinder or obstruct a person designated under subsection 1 in the performance of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information.
- Offence      (4) Any person who contravenes this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1967, c. 33, s. 6 (2-4).
- Moneys      **7.** The moneys required for the purposes of the Board shall be paid out of the moneys appropriated therefor by the Legislature. 1967, c. 33, s. 7, *amended*.
- Audit      **8.** The accounts and financial transactions of the Board shall be audited annually by the Provincial Auditor. 1967, c. 33, s. 8.
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## CHAPTER 200

## The Health Services Insurance Act

## 1. In this Act,

Interpre-  
tation

- (a) “Board” means the Health Insurance Registration Board established under *The Health Insurance Registration Board Act*; R.S.O. 1970, c. 199
- (b) “Council” means the Health Services Insurance Council;
- (c) “dependant” means a dependant of an insured person, as defined in the regulations;
- (d) “designated agent” means an agent designated by the regulations and authorized to discharge certain functions and responsibilities under an agreement made under section 5;
- (e) “Director” means the Executive Director of the Health Services Insurance Division of the Department of Health;
- (f) “insured health services” means all services rendered by physicians that are medically required, and such other health services as are rendered by such practitioners and under such conditions and limitations as are prescribed by the regulations, but not including services that a person is eligible for and entitled to under the *Hospital Insurance and Diagnostic Services Act* (Canada) or under any other Act of the Parliament of Canada except the *Medical Care Act* (Canada) or under *The Workmen’s Compensation Act*; R.S.C. 1952, c. 28  
1966, c. 64 (Can.)  
R.S.O. 1970, c. 505
- (g) “insured person” means a person who is entitled to insured services under this Act and the regulations;
- (h) “Minister” means the Minister of Health;
- (i) “physician” means a legally qualified medical practitioner lawfully entitled to practise medicine in the place in which such practice is carried on by him;
- (j) “Plan” means the Health Services Insurance Plan established under section 3;
- (k) “practitioner” means a person other than a physician who is lawfully entitled to render insured health services in the place where they are rendered;



- (l) "Registrar" means the Registrar of the Health Insurance Registration Board;
- (m) "regulations" means the regulations made under this Act;
- (n) "resident" means a person lawfully entitled to be or remain in Canada, who makes his home and is ordinarily present in Ontario, but does not include a tourist, transient or visitor to Ontario, or a member of the Canadian Forces, or a member of the Royal Canadian Mounted Police Force, or a person serving a term of imprisonment in a penitentiary as defined in the *Penitentiary Act* (Canada). 1968-69, c. 43, s. 1.

R.S.C. 1952,  
c. 206

Provincial  
authority  
for purposes  
of 1966, c. 64  
(Can.)

**2.** The Minister is responsible in respect of the administration and operation of the Plan and is the provincial authority for Ontario for the purposes of the *Medical Care Act* (Canada). 1968-69, c. 43, s. 2.

Health  
Services  
Insurance  
Plan  
established

**3.**—(1) The Health Services Insurance Plan is established for the purpose of providing for insurance of the costs of insured health services and such other services on a non-profit basis on uniform terms and conditions available to all residents of Ontario, in accordance with this Act, and providing other health benefits related thereto.

Audit  
of Plan

(2) The accounts and financial transactions of the Plan shall be audited annually by the Provincial Auditor. 1968-69, c. 43, s. 3.

Functions  
of H.I.R.B.

**4.**—(1) It is the function of the Board and it has power,

- (a) to determine eligibility and collect premiums for health services insurance as established under this Act and perform all functions necessary for the purpose; and
- (b) to perform such other duties as are assigned by this Act and the regulations.

Determina-  
tion of  
claims

(2) The Director shall approve and assess claims for insured health services and determine the amounts to be paid and authorize the payment thereof, and shall perform such other duties as are assigned to him by this Act or the regulations. 1968-69, c. 43, s. 4.

Agents

**5.** The Minister may enter into an agreement with any person to designate such person as an agent,

- (a) to determine eligibility for health services insurance and to enrol subscribers;
- (b) to collect premiums for health services insurance;
- (c) to pay individual claims for insured health services which have been approved and assessed by the Director in the amounts determined by him; and

- (d) to perform such other ancillary and incidental functions as are necessary for the administration of the Plan not inconsistent with this Act or the *Medical Care Act* (Canada). 1966, c. 64 (Can.)

or any of them. 1968-69, c. 43, s. 5.

**6.**—(1) Every person who is a resident of Ontario is entitled to become an insured person upon application therefor to the Board or a designated agent in accordance with this Act and the regulations. Right to insurance

(2) Every dependant of a person who is an insured person as a member of a mandatory group or collector's group or as a pay-direct participant is an insured person. 1968-69, c. 43, s. 6. Dependants

**7.**—(1) Every insured person is entitled to payment to himself or on his behalf of the amount prescribed under this Act for the cost of insured health services provided by a physician or practitioner on or after the 1st day of October, 1969 and during the period in respect of which his premium is paid, other than insured health services for which the cost is payable under *The Hospital Services Commission Act* or would be payable if the insured person were an insured person under that Act. Payment for insured health services  
R.S.O. 1970, c. 209

(2) Where a person becomes an insured person, he is entitled to payment for insured health services commencing on the first day of the third month after his eligibility is confirmed by the Registrar or a designated agent, provided that the first premium therefor is paid before that day. 1968-69, c. 43, s. 7 (1, 2). Commencement of services

**8.** Every person who is an immigrant as defined in the *Immigration Act* (Canada) for permanent residence in Ontario and applies to become an insured person within three months of his arrival is entitled to payment of the costs of insured health services from the date he becomes an insured person. 1968-69, c. 43, s. 8 (3, 4). Enrolment of immigrants  
R.S.C. 1952, c. 325

**9.**—(1) The employees of an employer are a mandatory group if the number of employees who are residents of Ontario, including the employer if he is an individual or a member of a partnership, totals fifteen or more. Mandatory group

(2) Where the employees of an employer who are residents of Ontario, including the employer if he is an individual or a member of a partnership, total more than five but fewer than fifteen, the Board or designated agent shall upon application therefor designate the group as a mandatory group. Voluntary creation of mandatory group

(3) Every person who is a member of a mandatory group shall be an insured person in accordance with this Act and the regulations. 1968-69, c. 43, s. 9. Coverage

Deductions  
by employer

**10.**—(1) The employer shall deduct from the remuneration of each employee in his mandatory group the premiums required under this Act or such part as is agreed upon by the employer and his employee, but each member of the group is primarily liable to pay the premium.

Agreements  
for  
employer's  
contribution

(2) Nothing in this Act shall be construed to affect any agreement or arrangement for contribution by an employer of all or any of the premiums payable for insurance in respect of his employees and any obligation of the employer thereunder to pay all or any part of the premium for insured health services continues in respect of the payment of the premium for insured health services under this Act.

Where cost  
of insurance  
is reduced

(3) Where the amount required to be paid under an agreement referred to in subsection 2 by the employer as premium for insured health services, or the part of such amount that is referable to insured health services, is greater than the amount the employer is, by virtue of subsection 2, required to pay in respect of the premium under this Act, the employer shall, until the agreement is terminated, pay the amount of the excess to or for the benefit of the employees and section 37 of *The Labour Relations Act* applies to differences arising in the application of this subsection in the same manner as to differences arising from the interpretation, application, administration or alleged violation of a collective agreement.

R.S.O. 1970,  
c. 232

Effect of  
deduction  
by employer

(4) The deduction by an employer from the remuneration of an employee in his mandatory group of the premium required under this Act shall discharge the primary liability of that employee to pay the premium so deducted.

No service  
charge

(5) No person shall make any charge for acting in his capacity as the employer of a mandatory group. 1968-69, c. 43, s. 10.

Collector's  
groups

**11.**—(1) Upon the application of an organization having five or more members who are residents of Ontario and wish to apply for health services insurance, the Board or a designated agent shall designate the organization a collector's group and a member of the group nominated by the group and approved by the Board shall be the collector.

Liability  
to pay  
premium

(2) Each member of the group is primarily liable to pay the premium.

No service  
charge

(3) No person shall make any charge for acting in his capacity as a collector.

Govern-  
ment of  
Canada  
groups

(4) The Board may, at the request of the Government of Canada, designate as a collector's group any group for whom and on whose behalf the Government of Canada undertakes to remit the premiums and information in the prescribed form. 1968-69, c. 43, s. 11.



**12.** Every person who receives, retains or withholds any amount for the purpose of paying a premium on behalf of an insured person shall be deemed to have received and to be holding the amount in trust for the Treasurer of Ontario and all accounts of such premium amounts shall be kept separate and apart from his own money. 1968-69, c. 43, s. 12.

Premiums  
for  
remittance  
in trust

**13.** The premium for health services insurance for a single insured person or an insured person and one dependant or an insured person and two or more dependants shall be such amounts as are prescribed by the regulations. 1968-69, c. 43, s. 13.

Amount of  
premiums

**14.** All premiums for health services insurance shall be remitted to the Registrar or a designated agent and shall be made payable to the Treasurer of Ontario. 1968-69, c. 43, s. 14.

Remission  
of premiums

**15.** This Act shall not be administered or construed to affect the right of an insured person to choose his own physician or practitioner, and does not impose any obligation upon any physician or practitioner to treat an insured person. 1968-69, c. 43, s. 15.

Choice of  
physician  
or practi-  
tioner

**16.** An insured person who becomes a resident of another province is entitled to remain insured and to payment for insured health services rendered to him,

Change of  
residence  
to another  
participat-  
ing province

(a) where he becomes a resident of a participating province under the *Medical Care Act* (Canada), until his coverage under the medical care insurance plan of that province takes effect or until the expiration of a period of four months, whichever occurs first; and

1966, c. 64  
(Can.)

(b) where he becomes a resident of a non-participating province, or any other jurisdiction, until the expiration of a period of four months,

on the same basis as though he had not ceased to be a resident of Ontario. 1968-69, c. 43, s. 16.

**17.** The Board may grant assistance in the payment of premiums for such persons and in such amounts as are determined in accordance with the regulations. 1968-69, c. 43, s. 17.

Premium  
assistance

**18.**—(1) Any insured person who is unable to continue payment of his premiums due to unemployment, illness, disability or financial hardship may, within the first thirty days of his default, apply to the Board for assistance in continuing his entitlement to insured services.

Application  
for  
temporary  
assistance

(2) The Board may direct that an applicant under subsection 1 be relieved of the payment of the whole or any part of his premium during his unemployment, illness, disability or financial hardship. 1968-69, c. 43, s. 18.

Granting  
temporary  
assistance



Payment  
for insured  
health  
services

**19.**—(1) Subject to subsection 2 of section 21, payment for insured health services rendered by a physician shall be for 90 per cent of the schedule of fees of the Ontario Medical Association in effect on the 27th day of June, 1969, including any minor amendment thereto in respect of any ancillary or incidental matter or in respect of a new procedure.

Idem

(2) Payment for insured health services rendered by a physician outside Ontario shall be in the amount actually billed by the physician or the amount provided for in subsection 1, whichever is the lesser.

Idem

(3) Payment for insured health services rendered by a practitioner, whether within or outside Ontario, shall be in an amount prescribed by the regulations. 1968-69, c. 43, s. 19.

Commuta-  
tion of fees

**20.** The Minister may enter into arrangements for the payment of remuneration to physicians or practitioners rendering insured health services to insured persons on a basis other than fee for service. 1968-69, c. 43, s. 20.

Revision  
of O.M.A.  
schedule  
of fees

**21.**—(1) At least six months before any revision of the schedule of fees of the Ontario Medical Association, the Ontario Medical Association shall notify the Minister of the proposed revision and the Minister shall implement discussions with representatives of the Ontario Medical Association respecting the extent of any proposed change in the schedule of fees.

Prescribing  
new  
schedule  
by regula-  
tion

(2) Where the revised schedule of fees results in an increase in the costs of insured health services under the Plan, the Lieutenant Governor in Council may, notwithstanding subsection 1 of section 19, establish by regulation the schedule of payment that shall be made for insured health services rendered by physicians.

Idem

1966, c. 64  
(Can.)

(3) No schedule of payments shall be prescribed by regulation under this section that disqualifies the Plan for contribution by the Government of Canada under the *Medical Care Act* (Canada). 1968-69, c. 43, s. 21.

Charges  
more than  
payable  
under Plan

**22.**—(1) Where the physician or the practitioner intends to charge an insured person an amount more than is payable for the insured health service under the Plan, he shall so advise the patient prior to rendering the service.

Particulars  
of account

(2) Every physician and practitioner who performs an insured health service for an insured person shall provide the insured person, or designated agent or the Director, with the particulars of his services and account that are required by this Act and the regulations for the purpose of payment of the claim.

Information  
authorized

(3) Every insured person shall be deemed to have authorized his physician or practitioner who performed insured health services to provide the Director with such information respecting

the insured health services performed as the Director requires for the purposes of the Plan. 1968-69, c. 43, s. 22.

**23.**—(1) Each member of the Board and of the Council and each person employed in the administration of this Act including each employee of a designated agent shall preserve secrecy with respect to all matters that come to his knowledge in the course of his employment and that pertain to insured health services rendered and payments made therefor, and shall not communicate any such matters to any other person except as otherwise provided in this section. Information confidential

(2) A person referred to in subsection 1 may furnish information pertaining to the date on which an insured health service was provided, the name and address of the person who provided the service, the amounts paid under the Plan for the service and the person to whom they were paid, but such information may be furnished only, Exceptions re administration, etc.

- (a) in connection with the administration of this Act and the regulations or the *Medical Care Act* (Canada); or 1966, c. 64 (Can.)
- (b) in proceedings under this Act or the regulations; or
- (c) to the person who provided the service, his solicitor or personal representative, the committee of his estate, his trustee in bankruptcy or other legal representative; or
- (d) to the person who received the services, his solicitor, personal representative or guardian, the committee or guardian of his estate or other legal representative of that person.

(3) Information referred to in subsection 1 may, with the approval of the Minister, be published by the Department of Health in statistical form if the individual names of persons are not thereby revealed. Exception for statistical purposes

(4) With the consent of the Director, information of the kind referred to in subsection 2 and any other information pertaining to the nature of the insured health services provided and any diagnosis given by a person who provided the service may be disclosed or communicated to the statutory body governing the profession or a professional association of which he is a member if an officer of that body or association makes a written request therefor and states that the information is required for the purposes of investigating a complaint against one of its members or for use in disciplinary proceedings involving that member. Exception for professional discipline

(5) No person engaged in the administration of this Act shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the discharge of his duties, except in a proceeding under or authorized by this Act. 1968-69, c. 43, s. 23. Evidence

Information  
provided  
to Plan

**24.** No action lies against a person providing insured health services or a member of his staff in respect of the furnishing to the Plan of information relating to insured health services provided by him. 1968-69, c. 43, s. 24.

Other  
health  
services  
insurance  
prohibited

**25.**—(1) On the 1st day of October, 1969, every contract of insurance for the payment of all or any part of the cost of insured health services performed in Ontario and received by any person eligible to become an insured person under this Act is void and of no effect in so far as it makes provision for insuring against such costs and no person shall enter into or renew such a contract except under this Act.

Exceptions

(2) Subsection 1 does not apply to a contract of insurance entered into by a resident whose principal employment is in the United States of America and who is entitled to enter into the contract by virtue of his employment. 1968-69, c. 43, s. 25.

Health  
Services  
Insurance  
Council

**26.**—(1) There shall be a Health Services Insurance Council, consisting of not fewer than nine members who shall be appointed by the Lieutenant Governor in Council and of whom a majority are representatives of the public, two are representatives of the medical profession nominated by the Ontario Medical Association and two are representatives of the designated agents.

Chairman

(2) The Lieutenant Governor in Council shall designate one of the members of the Council who are representatives of the public as chairman, and in the case of a tie vote, the chairman shall have an additional vote.

Vacancies

(3) The Lieutenant Governor in Council may fill any vacancies that occur in the membership of the Council having regard to the balance of representation provided in subsection 1.

Quorum

(4) A majority of the members of the Council constitutes a quorum. 1968-69, c. 43, s. 26.

Functions

**27.**—(1) The functions of the Council are,

- (a) to receive and investigate complaints in respect of the operation of the Plan;
- (b) to advise and make recommendations to the Minister in respect of the operation of the Plan;
- (c) on the direction of the Minister, to conduct the discussions with the Ontario Medical Association referred to in subsection 1 of section 21 and report and make recommendations to the Minister in respect thereof;
- (d) advise and make recommendations to the Minister respecting the premium rate; and
- (e) perform any other function given it by the Minister or by any Act or regulation.



(2) For the purposes of clause *a* of subsection 1, the Council may require any designated agent or the Board or the Director to furnish the Council with such information respecting the matter complained of as the Council requires. 1968-69, c. 43, s. 27. Requiring information

**28.** The Director may refer any claim or claims to a committee established under clause *k* of section 32 for the purpose of assessing claims and the amounts thereof with particular reference to possible misuse or abuse of the Plan, and the committee shall report its conclusions and recommendations to the Director. 1968-69, c. 43, s. 28. Committees

**29.** Every person who, Offence, receiving payment by fraud

- (a) obtains payment under this Act or the regulations for insured health services for himself or for his benefit; or
- (b) aids or abets any other person in obtaining payment under this Act or the regulations for insured health services for such other person or for his benefit,

knowing that he or such other person is not entitled to the payment, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. 1968-69, c. 43, s. 29.

**30.—**(1) Subject to subsection 2, an employer, collector or designated agent who fails to remit the premiums required to be remitted under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$2,000. Offence, failure to remit premiums

(2) Where an employer, collector or designated agent is convicted of an offence under subsection 1, the provincial judge shall determine the amount of the premiums the employer failed to remit and shall make an order requiring the person convicted to pay the amount so determined to the Registrar. Order to pay premiums

(3) Every director or officer of a corporation who knowingly concurs in a failure to remit the premiums required to be remitted by the corporation under this Act is liable, jointly and severally with every other such officer and director, to make a payment ordered to be made under subsection 2. 1968-69, c. 43, s. 30. Liability of officers and directors

**31.** Where an employer, collector or designated agent that is a corporation fails to remit the premiums required to be remitted under this Act, and Liability of directors on winding up

- (a) goes into liquidation;
- (b) is ordered to be wound up;
- (c) makes an authorized assignment under the *Bankruptcy Act* (Canada); or R.S.C. 1952, c. 14



R.S.C. 1952,  
c. 14

- (d) has a receiving order under the *Bankruptcy Act* (Canada) made against it,

the directors thereof are jointly and severally liable for the payment of the amount of the premiums in default. 1968-69, c. 43, s. 31.

Regulations

**32.** The Lieutenant Governor in Council may make regulations,

- (a) providing for the enrolment of persons as insured persons;
- (b) prescribing who are dependants of insured persons for the purposes of this Act;
- (c) prescribing the persons who shall be deemed employees for the purposes of sections 9 and 10 and the employees who shall be members of a mandatory group;
- (d) governing the collection, accounting for and remission of premiums by employers of mandatory groups and by collectors and requiring employers and collectors to furnish such information and returns as is prescribed;
- (e) prescribing the amounts of premium payable for a single insured person, an insured person and one dependant and an insured person and two or more dependants and governing the time and manner of payment;
- (f) prescribing the qualifications for assistance in the payment of premiums and for determining the amount thereof;
- (g) specifying what services other than medical services are insured health services for the purposes of the Plan, and prescribing what practitioners may render such services and under what conditions such services are insured health services, and prescribing the amount of payment for such insured health services;
- (h) prescribing services that shall be deemed not to be insured health services for the purposes of this Act and the conditions under which the costs of any class of insured health services are payable and limiting the payment commensurate with the circumstances of the performance of the services;
- (i) providing for the making of claims for payment of the cost of insured health services and prescribing the information that shall be furnished in connection therewith;
- (j) designating persons with whom agreements under section 5 have been entered into;
- (k) establishing committees for the purpose of section 28;

- (l) prescribing additional duties of the Council, Director, Board or Registrar;
- (m) providing for payment to the Treasurer of Ontario by insurers of the amounts of claims in respect of the cost of insured health services that would otherwise be payable to insured persons;
- (n) subrogating the Health Services Insurance Division to any rights of recovery by an insured person in respect of payments for insured health services paid by the Division and providing the terms and conditions under which an action to enforce such rights may be begun, conducted and settled;
- (o) specifying categories of persons to whom the waiting period referred to in subsection 2 of section 7 does not apply;
- (p) establishing programs for other health benefits referred to in subsection 1 of section 3 and prescribing the terms and conditions of such programs;
- (q) prescribing forms for the purposes of this Act and providing for their use. 1968-69, c. 43, s. 32.

**33.** The Minister shall make a report annually to the Lieutenant Governor in Council upon the affairs of the Plan, and every such report shall contain the report of the Provincial Auditor under section 3 which shall include his certificate as to whether the accounts and financial transactions of the Plan including those of designated agents meet the requirements of this Act, and the Minister shall lay the report before the Assembly if it is in session, or if not, at the next ensuing session. 1968-69, c. 43, s. 33. Report to Assembly

**34.** The expenditures necessary for the purposes of the Plan shall be paid out of the moneys appropriated therefor by the Legislature. 1968-69, c. 43, s. 34, *amended*. Moneys

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## CHAPTER 201

**The Highway Improvement Act****1. In this Act,**Interpre-  
tation

- (a) “Board” means the Ontario Municipal Board;
- (b) “bridge” means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;
- (c) “construction” includes reconstruction;
- (d) “Department” means the Department of Highways;
- (e) “Deputy Minister” means the Deputy Minister of Highways;
- (f) “highway” means a common or public highway, or any part thereof, and includes a street, bridge and any other structure incidental thereto and any part thereof;
- (g) “land” includes an estate, term, easement, right or interest in, to, over or affecting land;
- (h) “maintenance” includes repair;
- (i) “Minister” means the Minister of Highways;
- (j) “owner” includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested;
- (k) “regulations” means the regulations made under this Act;
- (l) “road” has the same meaning as highway;
- (m) “road authority” means a body having jurisdiction and control of a highway;
- (n) “roadway” means that part of a highway designed or intended for use by vehicular traffic. R.S.O. 1960, c. 171, s. 1.

## PART I

## THE KING’S HIGHWAY

**2.—(1)** All property acquired under this Part is vested in the Crown and is under the jurisdiction and control of the Department.

Property  
vested in  
Crown



Property  
may be  
sold, etc.

(2) Subject to subsection 2 of section 3, all property that is under the jurisdiction and control of the Department may be leased, sold or otherwise disposed of by the Minister. R.S.O. 1960, c. 171, s. 2.

Use of space  
and areas  
over or  
under  
highway

(3) The Minister may authorize any department or agency of the Crown or any municipality, including a district, metropolitan or regional municipality, or a local board thereof or any corporation or person, by lease, licence or other arrangement,

(a) to use; or

(b) to construct, maintain and use buildings, structures or improvements in or on,

any space or area located over, across or under a highway under the jurisdiction of the Department where, in the opinion of the Minister, such construction, maintenance or use can be carried out without unduly interfering with the public use of the highway. 1970, c. 107, s. 1.

Crown  
Land  
Plans

**3.**—(1) Where the Minister desires to acquire for the purposes of this Part jurisdiction and control over Crown lands not under the jurisdiction and control of the Department, he shall deposit with the Minister of Lands and Forests and register in the proper registry or land titles office a plan of the land to be known as and marked "Crown Land Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and thereupon the land is under the jurisdiction and control of the Department for the purposes of this Part. R.S.O. 1960, c. 171, s. 3 (1); 1962-63, c. 55, s. 1.

Crown  
land no  
longer  
required

(2) Where the jurisdiction and control of Crown land or a part thereof is no longer required for the purposes of this Part, the Minister may, with the approval of the Minister of Lands and Forests, by a writing signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, deposited with the Minister of Lands and Forests and registered in the proper registry or land titles office, declare that the jurisdiction and control of the land or part thereof is no longer required and thereupon such land or part thereof is under the jurisdiction and control of the Department of Lands and Forests. R.S.O. 1960, c. 171, s. 3 (2); 1961-62, c. 51, s. 1.

Power to  
enter on  
land, etc.

**4.** The Minister or any person authorized by him may, without the consent of the owner,

(a) enter upon and use any land;

(b) alter in any manner any natural or artificial feature of any land;

- (c) construct and use roads on, to or from any land; or
- (d) place upon or remove from any land any substance or structure,

for any purpose of this Part. R.S.O. 1960, c. 171, s. 4.

**5.** The Lieutenant Governor in Council may designate a highway or proposed highway as the King's Highway. R.S.O. 1960, c. 171, s. 5.

Designation  
of the  
King's  
Highway

**6.**—(1) Where the Minister desires to acquire an existing highway, he shall register in the proper registry or land titles office a plan of the highway to be known as and marked "Assumption Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and thereupon the highway vests in the Crown, and the Minister forthwith shall give notice in writing of such vesting to any municipality concerned. R.S.O. 1960, c. 171, s. 6 (1); 1962-63, c. 55, s. 2.

Procedure  
for  
acquiring  
a highway  
  
Assumption  
Plan

(2) The Minister may, before registering an Assumption Plan, register in the proper registry or land titles office a preliminary plan of the highway to be known as and marked "Preliminary Assumption Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and such Preliminary Assumption Plan when registered has the same force and effect as an Assumption Plan registered under subsection 1, but an Assumption Plan of the highway shall thereafter be registered under subsection 1. R.S.O. 1960, c. 171, s. 6 (2).

Preliminary  
Assumption  
Plan

**7.** In case of any omission, misstatement or erroneous description in a plan or description registered under this Part, the Minister may register in the proper registry or land titles office a plan or description replacing or amending such original plan or description and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and a plan registered under this section shall be marked to show the nature of the replacement or amendment and is of the same force and effect as and is in substitution for the original plan or description to the extent that such plan or description is replaced or amended thereby. R.S.O. 1960, c. 171, s. 8.

Correction  
of errors

**8.** Where a plan and description purporting to be signed by any of the persons authorized so to do is registered under this Part, it shall be deemed to have been registered by the direction and authority of the Minister and as indicating that in the opinion of the Minister the highway described or the land described is

Verification  
of plans and  
descriptions

necessary for the purposes of this Part, and the plan and description shall not be called in question except by the Minister or by a person authorized by the Minister. R.S.O. 1960, c. 171, s. 9.

Land may  
be acquired  
or exprop-  
riated

**9.**—(1) The Minister may, in the name of Her Majesty, acquire by purchase, lease or otherwise or may, without the consent of the owner, expropriate any land for the purposes of this Part or for making compensation in whole or in part to any person for land acquired under this Part. R.S.O. 1960, s. 171, s. 7 (1), *amended*.

Plan  
registered  
under  
R.S.O. 1970,  
c. 154

(2) Where a proposed expropriation of land has been approved under *The Expropriations Act*, the plan to be registered under section 9 of that Act or an instrument to be registered under subsection 2 of section 42 of that Act may be signed by the Minister, the Deputy Minister, the Director of Services, the Superintendent of Properties or the Superintendent of Surveys and by an Ontario land surveyor. R.S.O. 1960, c. 171, s. 7 (2); 1962-63, c. 55, s. 3 (1), *amended*.

Power to  
take whole  
lot when  
part only  
required

(3) Where the Minister is of opinion that he can obtain the whole of a lot or parcel of land at a more reasonable price or to greater advantage than by acquiring a part thereof only, he may expropriate the whole of the lot or parcel and also any right of way thereto. R.S.O. 1960, c. 171, s. 7 (4).

Claims for  
damages or  
compensa-  
tion from  
exercise  
of power  
under s. 4  
R.S.O. 1970,  
c. 154

**10.** The provisions of this Part respecting claims for damages or compensation and the amount thereof resulting from the exercise of any power under section 4 apply only where the exercise of such power does not result in expropriation or injurious affection to which *The Expropriations Act* applies. *New*.

Notice to  
be given  
to owner

**11.**—(1) Where any of the powers conferred by section 4 have been exercised, the Minister shall, within sixty days thereafter, give notice to the owner,

- (a) if the owner is known and his residence is known, by serving upon or by mailing by registered letter addressed to him at his last known place of residence a notice describing the land affected and the power exercised and stating that every person having any claim to compensation must file the claim in the office of the Minister within six months after the date of the notice; or
- (b) if the owner is unknown or his place of residence is unknown, by the publication of a similar notice once a week for at least three weeks in a newspaper having general circulation in the county or district in which the land affected is situate. R.S.O. 1960, c. 171, s. 10 (1), *amended*.

(2) Where notice has been given under subsection 1, a claim for compensation shall be made within the time limited by the notice. Where notice given

(3) Where no notice has been given under subsection 1, a claim for compensation may be made at any time by giving notice thereof to the Minister, and the provisions of this Part with respect to the fixing, payment and application of compensation apply thereto. R.S.O. 1960, c. 171, s. 10 (2, 3). Where no notice given

**12.—**(1) The Minister shall make due compensation to the owner of land for any damage necessarily resulting from the exercise of any of the powers conferred by section 4. R.S.O. 1960, c. 171, s. 11 (1), *amended*. Right to compensation

(2) Every such claim for compensation not agreed upon by the Minister and the claimant shall be determined by the Board and not otherwise, and *The Ontario Municipal Board Act*, except section 95, applies so far as is practicable to every such claim that is referred to the Board. Determination of compensation  
R.S.O. 1970, c. 323

(3) The Minister or the claimant may, with leave of the Court of Appeal, appeal to that court from any determination or order of the Board as to compensation under this Part. Appeal to Court of Appeal

(4) Application for leave to appeal shall be made within thirty days after the date of the determination or order of the Board subject to the rules of court as to vacations. Time for appeal

(5) The leave may be granted on such terms as to the appellant giving security for costs and otherwise as the court considers just. R.S.O. 1960, c. 171, s. 11 (2-5). Terms

**13.** Every person who is claiming compensation or damages under this Part shall, upon demand made therefor by the Minister or any person authorized by him, furnish to the Minister a true statement showing the particulars of his interest in the land concerned and of the claim made by him. R.S.O. 1960, c. 171, s. 15. Minister may require particulars

**14.—**(1) Interest at the rate of 5 per cent per annum may be allowed on the compensation or damages from the time when the land was used, but no person who has been offered in writing a sum equal to or greater than the compensation or damages shall be allowed interest thereon for any period after the date of the offer. Interest

(2) Where the Board is of the opinion that any delay in determining the compensation or damages is attributable in whole or in part to the person entitled to the compensation or damages or any part of it, the Board may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow interest at such rate less than 5 per cent per annum as appears just. R.S.O. 1960, c. 171, s. 17. Where interest may be withheld



Payment of  
compensation,  
damages  
and costs

**15.** The Treasurer of Ontario may pay out of the Consolidated Revenue Fund to any person any sum to which he is entitled under this Part as compensation, damages or costs. R.S.O. 1960, c. 171, s. 18.

Minister  
may exercise  
powers of  
municipality

**16.** The Minister has, within the limits of any municipality in which the King's Highway is situate, all the powers that may be exercised by that municipality in respect of its highways. R.S.O. 1960, c. 171, s. 19.

Previous  
rights and  
agreements

**17.—(1)** The Minister has in respect of the King's Highway all the rights, powers, benefits and advantages conferred by by-law or agreement or otherwise upon the municipality that had jurisdiction and control of the highway before the highway was vested in the Crown, and the Crown may sue thereon in the same manner and to the same extent as the municipality might have done if the highway had not vested in the Crown.

Right of  
Minister  
to copies of  
by-laws, etc.

**(2)** The Minister is entitled to a copy of any such by-law or agreement from the municipality and has the right to inquire into and ascertain full particulars concerning any such by-law or agreement. R.S.O. 1960, c. 171, s. 20.

Intersecting  
highways

**18.** Where the King's Highway intersects a highway that is not the King's Highway, the continuation of the King's Highway to its full width across the highway so intersected is the King's Highway. R.S.O. 1960, c. 171, s. 21.

Connecting  
links,  
extensions

**19.—(1)** Where it is deemed by the Minister that a highway,

- (a)** that is under the jurisdiction and control of a city, town or village; or
- (b)** that is in a city, town or village and under the control of the county; or
- (c)** that was under the jurisdiction of the Department but has reverted or been transferred to a township and is an essential and direct connection between parts of the King's Highway; or
- (d)** that was a connecting link between parts of the King's Highway or an extension of the King's Highway on the date it came under the jurisdiction and control of a township,

should be constructed as a connecting link between parts of the King's Highway or as an extension of the King's Highway, the Lieutenant Governor in Council may designate such highway as a connecting link or as an extension, as the case may be, to be constructed by the city, town, village, township or county, and

the council of the city, town, village, township or county may pass by-laws for issuing and may issue debentures under *The Municipal Act* for an amount sufficient to pay the municipality's share of the cost of the construction of the highway, but, in the case of a city, town, village or township, it is not necessary for the council to obtain the assent of the electors to any such by-laws for the issue of debentures or to observe the formalities in relation thereto prescribed by *The Municipal Act*. 1962-63, c. 55, s. 4 (1); 1967, c. 34, s. 1 (1); 1970, c. 107, s. 2.

R.S.O. 1970,  
c. 284

(2) In the case of a city, town, village or township, work required to be constructed under subsection 1 may be undertaken as a local improvement under *The Local Improvement Act*, and in that case the council may by by-law fix the proportion of the cost of the work to be borne by the municipality at large as the council considers proper. R.S.O. 1960, c. 171, s. 22 (2); 1962-63, c. 55, s. 4 (2).

Work as  
local im-  
provement  
R.S.O. 1970,  
c. 255

(3) The Minister and the council of a town, not being a separated town, or of a village or township may enter into an agreement for the construction and maintenance therein by the municipality or by the Department of a highway designated under subsection 1. R.S.O. 1960, c. 171, s. 22 (3); 1962-63, c. 55, s. 4 (3).

Construc-  
tion and  
maintenance  
agreements,  
towns,  
villages,  
townships

(4) The Minister and the council of a city or of a separated town may enter into an agreement for the construction therein by the municipality or by the Department of a highway designated under subsection 1.

Idem,  
cities and  
separated  
towns

(5) The Minister and the council of a county may enter into an agreement, in the case of a highway in a town, not being a separated town, or a village, for the construction by the county or by the Department of a highway designated under subsection 1, and, in the case of a highway in a city or separated town, for the construction therein by the county or by the Department of a highway designated under subsection 1. R.S.O. 1960, c. 171, s. 22 (4, 5).

Idem,  
counties

(6) An agreement under subsection 3, 4 or 5 may provide that a proportion of the cost of the work shall be paid out of the moneys appropriated therefor by the Legislature and that the remainder shall be borne and paid by the city, town, village, township or county, as the case may be, but the proportion to be paid out of the moneys appropriated therefor by the Legislature shall not exceed,

Apportion-  
ment of  
cost of work

- (a) where the highway is in a town, not being a separated town, having a population of not more than 2,500 or in a village or township having a population of not more than 2,500, a sum equal to the cost of the construction of the highway and of the maintenance of the roadway;

- (b) where the highway is in a town, not being a separated town, having a population of more than 2,500 or in a village or township having a population of more than 2,500, a sum equal to 90 per cent of the cost of the construction of the highway and of the maintenance of the roadway; and
- (c) where the highway is in a city or separated town, a sum equal to 75 per cent of the cost of the construction of the highway. 1962-63, c. 55, s. 4 (4); 1967, c. 34, s. 1 (2).

Idem,  
additional  
roadways  
and widths

(7) An agreement under subsection 3, 4 or 5 may provide for the construction and maintenance or for the construction, as the case may be, of roadways necessary to permit the proper interchange of traffic at intersections of the highway designated under subsection 1 with any other highway, and in that case the agreement may provide that a proportion of the cost of the construction and maintenance or construction, as the case may be, of the work shall be paid out of the moneys appropriated therefor by the Legislature and that the remainder shall be borne and paid by the city, town, village, township or county, but the proportion to be paid out of the moneys appropriated therefor by the Legislature shall not exceed,

- (a) where the highway is in a town, not being a separated town, having a population of not more than 2,500 or in a village or township having a population of not more than 2,500, a sum equal to the cost of the construction and maintenance of the work;
- (b) where the highway is in a town, not being a separated town, having a population of more than 2,500 or in a village or township having a population of more than 2,500, a sum equal to 90 per cent of the cost of the construction and maintenance of the work; and
- (c) where the highway is in a city or separated town, a sum equal to 75 per cent of the cost of the construction of the work. 1962-63, c. 55, s. 4 (6); 1967, c. 34, s. 1 (3).

Determina-  
tion of  
cost of  
work

(8) For the purposes of an agreement entered into under subsection 3 or 4, the owners' share of the cost of local improvements shall not be included in the cost of the work without the consent of the Minister, nor may any other contribution received from any source be so included without the consent of the Minister. R.S.O. 1960, c. 171, s. 22 (9).

Jurisdiction  
and control  
unchanged

(9) A highway does not, by reason of its having been constructed or maintained under this section, become the property of the Crown, but every such highway remains under the jurisdiction and control of the city, town, village, township or county, as the case may be. R.S.O. 1960, c. 171, s. 22 (10); 1962-63, c. 55, s. 4 (7).

**20.** The Minister and any municipality, including a district, metropolitan or regional municipality, may enter into an agreement for the preparation of a report on the whole or any part of the transportation system required to meet the needs of the municipality and the Minister may direct payment out of moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the report. 1970, c. 107, s. 3.

Transportation  
needs study  
report

**21.—**(1) The Minister and a municipality in which a part of the King's Highway is situate or an owner of land adjoining a part of the King's Highway may enter into an agreement for the construction of a roadway of a greater width or with different specifications than those for the remainder of the roadway, and the Department may construct the roadway accordingly.

Agreement  
for construction  
of greater  
width of  
roadway

(2) The additional cost entailed under such an agreement to be borne by a municipality may be raised by a special tax or by the issue of debentures under *The Local Improvement Act* or *The Municipal Act*, and debentures issued under either Act shall be payable within a period not exceeding twenty years from the date of the debentures, but it is not necessary to obtain the assent of the electors to any by-law for the issue of such debentures under *The Municipal Act* or to observe any of the provisions of *The Local Improvement Act* with respect to the undertaking of works as local improvements. R.S.O. 1960, c. 171, s. 24.

Raising cost  
of special  
work

R.S.O. 1970,  
cc. 255, 284

**22.—**(1) Where the Minister or a person authorized by him considers it advisable to change the grade or make other alterations upon a highway intersecting or affording access to the King's Highway or giving access to private property, the cost of the changes so made shall be deemed to be part of the cost of the construction of the King's Highway. R.S.O. 1960, c. 171, s. 25 (1).

Grading  
approaches  
to King's  
Highway

(2) A municipality shall not open, close or divert any highway or road allowance entering or touching upon or giving access to the King's Highway without the approval of the Lieutenant Governor in Council, and a by-law passed for any of such purposes does not take effect until it has been approved by the Lieutenant Governor in Council. 1970, c. 107, s. 4.

Consent to  
closing of  
highway  
connecting  
with King's  
Highway

**23.—**(1) The Minister or a person authorized by him may initiate and carry out proceedings under any Act for the purpose of procuring proper drainage for the King's Highway, and the Minister or such authorized person has authority to file notices and declarations as owner with the clerk of the local municipality or municipalities, or may receive notices where any other person is the initiating party, in accordance with the procedure prescribed in the Act, but no drainage works shall be constructed upon the King's Highway under any Act without the consent of the Minister or such authorized person.

Drainage of  
the King's  
Highway



Drainage  
engineer  
for De-  
partment

(2) The Minister may from time to time designate one or more engineers of the Department to be the engineer or engineers authorized to carry out the provisions of any Act for the purpose of procuring proper drainage for the King's Highway or other property under the control of the Department, and every engineer so designated has for such purpose all the powers and shall perform all the duties on behalf of the Department required of an engineer appointed by a municipality. R.S.O. 1960, c. 171, s. 26.

Construc-  
tion of works

**24.**—(1) The Minister may construct, maintain and operate such works as he considers necessary or expedient for the purposes of this Part, including rest, service and other areas for the use of persons using the highway, and he and any person, including a municipality or local board thereof, may enter into agreements with respect to the construction, maintenance or operation of any of such works.

Regulations

(2) The Lieutenant Governor in Council may make regulations prohibiting or regulating the use of any rest, service or other area or any class or classes thereof constructed, maintained or operated under subsection 1, but no such regulation shall affect the operation of any agreement entered into by the Crown as represented by the Minister with respect to a service area except to the extent that the other party to the agreement consents thereto.

Offence

(3) Every person who contravenes any provision of a regulation made under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$50.

Agreements  
for con-  
struction,  
etc., of  
highway to  
higher  
standard

(4) The Minister and any municipality may enter into agreements for the construction, maintenance or operation of any part of the King's Highway located within the municipality to a higher standard than the Minister considers necessary or expedient for the purposes of this Part. 1967, c. 34, s. 2.

Closing  
highway  
to traffic

**25.**—(1) While a work authorized by this Part is in progress, the Minister or a person authorized by him may close to traffic the King's Highway on which the work is being done for such time as the Minister or such person, as the case may be, considers necessary.

Alternative  
routes  
during work

(2) While the King's Highway is so closed to traffic, the Department shall provide and keep in repair an alternative route for traffic and for property owners who cannot obtain access to their property by reason of such closing, or the Minister and a municipality may enter into an agreement for that purpose or the Minister may make a grant to a municipality for that purpose, and any such expenditure or grant shall be apportioned as a part of the cost of the work in progress on the King's Highway by reason of which the alternative route is necessary. R.S.O. 1960, c. 171, s. 28 (1, 2).

(3) While the King's Highway is so closed to traffic, the Minister or a person authorized by him shall protect it by erecting or causing to be erected at each end of it, and, wherever an alternative route deviates from it, a barricade upon which a red or a flashing amber light visible for a distance of 500 feet shall be exposed and kept burning or operating continuously from sunset until sunrise, and at such points shall put up a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic. 1964, c. 37, s. 1. Barricades

(4) Every person using the King's Highway closed to traffic in accordance with this section does so at his own risk and the Crown is not liable for any damage sustained by a person using the King's Highway so closed to traffic. No Crown liability

(5) Every person who without lawful authority uses the King's Highway so closed to traffic while it is protected in accordance with subsection 3, or who removes or defaces any barricade, light, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 and is also liable to the Crown for any damage or injury occasioned by such wrongful use, removal or defacement. R.S.O. 1960, c. 171, s. 28 (4, 5). Offence

**26.**—(1) The Lieutenant Governor in Council may direct that any part of the King's Highway or any part of any other highway that is under the jurisdiction and control of the Department may be closed. Closing

(2) The Lieutenant Governor in Council may direct that any part of the King's Highway or any part of any other highway that is under the jurisdiction and control of the Department shall revert to the road authority previously responsible for its maintenance or be transferred to the municipality within which it is situate, and it vests in and is under the jurisdiction and control of the road authority to which it so reverts or the municipality to which it is so transferred on and after the day named by the Lieutenant Governor in Council. Reversion or transfer to municipality

(3) Where the Lieutenant Governor in Council directs the reversion or transfer of a highway under subsection 2, any designation of the highway as the King's Highway or as a secondary highway is revoked on the day named by the Lieutenant Governor in Council under subsection 2. R.S.O. 1960, c. 171, s. 29. Designation revoked

**27.**—(1) The Department may plant trees upon the King's Highway and the cost thereof shall be part of the cost of its maintenance. Planting trees

(2) No person, including a municipality and a local board thereof, shall injure, destroy, cut or prune any tree within the Cutting, etc.

limits of the King's Highway without first obtaining the consent in writing of the Minister or a person authorized by him.

Offence

(3) Every person who contravenes subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 per tree and not more than \$100 per tree and is also liable for any damage occasioned by the injuring, destroying, cutting or pruning.

Bonus for  
planting  
trees

(4) The Department may pay an amount not exceeding 75 cents for each elm, maple or other tree of a species approved by the Department planted on land adjoining the King's Highway in accordance with the conditions of a permit issued therefor by the Minister.

Bonus  
chargeable

(5) The amounts paid under subsection 4 are chargeable to the moneys appropriated therefor by the Legislature and are payable upon a certificate of an engineer of the Department giving the name of the person entitled, the number of trees of each species planted and the amount to which the person is entitled and certifying that the trees have been planted for a period of three years and that they are alive, healthy and of good form and were planted in accordance with the conditions of the permit granted therefor by the Minister.

Agreements  
re fences

(6) The Minister may agree with the owner of property adjoining the King's Highway with respect to the moving, removal or construction of a wire or other type of fence along the King's Highway and may pay the owner therefor.

Removal of  
obstructions

(7) Subject to the payment of such compensation as is agreed upon or as is determined in the manner provided by section 12, the Minister may direct the owner of any tree, shrub, bush, hedge, fence, signboard, gasoline pump, building or other object growing or standing on lands adjacent to the King's Highway to remove it where in his opinion the safety or convenience of the travelling public so requires or where in his opinion it might cause the drifting or accumulation of snow or be injurious to the highway. R.S.O. 1960, c. 171, s. 30.

Snow  
fences

(8) The Minister or any person authorized by him may enter upon any land adjacent to the King's Highway without the consent of the owner and may erect and maintain snow fences thereon subject to payment for such damage as is suffered by the owner of the land so entered upon, and the amount thereof, if not agreed upon, shall be determined in the manner provided by section 12.

Offence

(9) Any person who hinders or interferes with the erection of snow fences under subsection 8, or who, without lawful authority, takes down, removes or otherwise interferes with snow fences that have been erected under that subsection, is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50. 1965, c. 45, s. 1.

**28.**—(1) Notwithstanding anything in any general or special Act, no person, including a municipality and a local board thereof, Interference with King's Highway

- (a) shall obstruct or deposit material on or take up or in any way interfere with the King's Highway; or
- (b) shall construct any private road, entranceway, gate or other structure or facility as a means of access to the King's Highway, other than a controlled-access highway,

except in accordance with the conditions of a permit issued therefor by the Minister.

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$1,000. R.S.O. 1960, c. 171, s. 31. Offence

**29.**—(1) The Minister may make regulations prohibiting or regulating the use of the King's Highway by any class of vehicles or animals and may impose penalties for contravention thereof, but no such regulation has any force or effect until approved by the Lieutenant Governor in Council after notice to any municipality affected thereby. Regulating use

(2) Every person who, being the owner or having the care, custody or control of horses, cattle, swine, sheep or goats, suffers or permits them or any of them to run at large within the limits of the King's Highway is guilty of an offence and on summary conviction is liable to a fine of not more than \$5 for every such animal found at large upon the highway, but this section does not create any civil liability on the part of the owner of the animal for damage caused to the property of others as a result of the animal running at large within the limits of the King's Highway. R.S.O. 1960, c. 171, s. 32. Horses, cattle, etc., on highway

**30.**—(1) The King's Highway shall be maintained and kept in repair by the Department and any municipality in which any part of the King's Highway is situate is relieved from any liability therefor, but this does not apply to any sidewalk or municipal undertaking or work constructed or in course of construction by a municipality or which a municipality may lawfully do or construct upon the highway, and the municipality is liable for want of repair of the sidewalk, municipal undertaking or work, whether the want of repair is the result of nonfeasance or misfeasance, in the same manner and to the same extent as in the case of any other like work constructed by the municipality. Department to maintain and repair

(2) In case of default by the Department to keep the King's Highway in repair, the Crown is liable for all damage sustained by any person by reason of the default, and the amount recoverable by a person by reason of the default may be agreed upon with the Minister before or after the commencement of an action for the recovery of damages. Liability for damage in case of default



Insufficiency  
of fence, etc.

(3) No action shall be brought against the Crown for the recovery of damages caused by the presence or absence or insufficiency of any wall, fence, guard rail, railing or barrier adjacent to or in, along or upon the King's Highway or caused by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or upon the King's Highway that is not on the roadway.

Notice  
claim

(4) No action shall be brought for the recovery of the damages mentioned in subsection 2 unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered letter to the Minister within ten days after the happening of the injury, but the failure to give or the insufficiency of the notice is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the Crown is not thereby prejudiced in its defence.

Limitation  
of action

(5) No action shall be brought against the Crown for the recovery of damages occasioned by the default mentioned in subsection 2, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time the damage was sustained.

Judgment,  
how payable

(6) All damages and costs recovered under this section and any amount payable as the result of an agreement in settlement of a claim for damages and costs that has been approved of in writing by counsel is payable in the same manner as in the case of a judgment recovered against the Crown in any other action. R.S.O. 1960, c. 171, s. 33 (1-6).

Style of  
action

(7) In an action against the Crown under this section, the defendant shall be described as "Her Majesty the Queen in right of the Province of Ontario, represented by the Minister of Highways for the Province of Ontario", and it is not necessary to proceed by petition of right or to procure the fiat of the Lieutenant Governor or the consent of the Minister of Justice and Attorney General before commencing the action, but every such action may be instituted and carried on and judgment may be given thereon in the same manner as in an action brought by a subject of Her Majesty against another subject. R.S.O. 1960, c. 171, s. 33 (7), *amended*.

Counter-  
claims and  
third party  
proceedings

(8) Notwithstanding any general or special Act, in an action against the Crown under this section, the defendant may set up by way of counterclaim any right or claim, whether the right or claim sounds in damages or not, and may claim contribution or indemnity from or any other relief over against any person not a party to the action, and every such counterclaim and claim may be instituted and carried on and judgment may be given as if such counterclaim or claim was made by a subject of Her Majesty against another subject.

(9) An action against the Crown under this section shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county in which the default occurred.

Action to  
be tried  
without  
jury

(10) The liability imposed by this section does not extend to a case in which a municipality having jurisdiction and control over the highway would not have been liable for the damage sustained. R.S.O. 1960, c. 171, s. 33 (8-10).

Liability  
not to  
exceed  
that of  
municipality

**31.**—(1) In this section, “centre point of an intersection” is the point where the centre line of the through part of the King’s Highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the King’s Highway.

Interpre-  
tation

(2) Notwithstanding any general or special Act, regulation, by-law or other authority, no person shall, except under a permit therefor from the Minister,

King’s  
Highway  
control

- (a) place, erect or alter any building, fence, gasoline pump or other structure or any road within 150 feet of any limit of the King’s Highway or within 600 feet of the centre point of an intersection;
- (b) place any tree, shrub or hedge within 150 feet of any limit of the King’s Highway or within 600 feet of the centre point of an intersection;
- (c) display any sign, notice or advertising device, whether it contains words or not, other than one sign not more than two feet by one foot in size displaying the name or the name and occupation of the owner of the premises to which it is affixed or the name of such premises within one-quarter mile of any limit of the King’s Highway; or
- (d) use any land, any part of which lies within one-half mile of any limit of the King’s Highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers.

(3) No person shall authorize or permit any act prohibited by subsection 2.

No authori-  
zation by  
others

(4) The Minister may order that subsection 2 or such clauses thereof as he specifies do not apply within the limits of any city, town or village or such parts thereof as he specifies.

Application

(5) The Minister may give notice to the owner of any land requiring him,

Notice to  
remove, etc.

- (a) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub or hedge placed, erected or altered; or

- (b) to remove therefrom or alter thereon any sign, notice or advertising device displayed,

in contravention of subsection 2.

Service of  
notice

(6) Every notice given under subsection 5 shall be in writing and shall be served personally or by registered letter and in the case of service by registered letter shall be deemed to have been received on the second day following its mailing.

Failure to  
comply with  
notice

(7) Where the person to whom notice is given under subsection 5 fails to comply with the notice within thirty days after its receipt, the Minister may in writing direct any officer, employee or agent of the Department to enter upon the land of such person and do or cause to be done whatever is necessary to remove or alter the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, sign, notice or advertising device as required by the notice.

Offence

(8) Every person who contravenes any of the provisions of subsection 2 or 3 or who fails to comply with a notice given under subsection 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and not less than \$50 and not more than \$500 for any subsequent offence.

Compensation

(9) Where a notice given under subsection 5 has been complied with, the Minister shall make due compensation to the owner of the land if the building, fence, gasoline pump or other structure or a road, tree, shrub, hedge, sign, notice or advertising device was placed, erected or altered, as the case may be,

- (a) before the 24th day of March, 1950, and in compliance with *The Highway Improvement Act*, being chapter 56 of the Revised Statutes of Ontario, 1937, and the regulations thereunder; or
- (b) before the day on which the King's Highway was so designated and in compliance with *The Highway Improvement Act* that was in force on that day; or
- (c) in compliance with a permit therefor, in which case the making of compensation is subject to the provisions of the permit.

Procedure

(10) Every claim for such compensation shall be determined in accordance with subsections 2 to 5 of section 12.

Permits

(11) The Minister may issue permits under this section in such form and upon such terms and conditions as he considers proper, and may in his discretion cancel any such permit at any time.

Fee

(12) The Minister may prescribe the fee to be paid for any permit or class of permit under this section. R.S.O. 1960, c. 171, s. 34.

**32.**—(1) In this section, “intersection” means the part of the King’s Highway contained within the prolongation or connection of the boundary lines of a private road that crosses the King’s Highway.

Interpre-  
tation

(2) The Lieutenant Governor in Council may make regulations designating provisions of *The Highway Traffic Act* or the regulations thereunder that shall not apply in intersections in territory without municipal organization. R.S.O. 1960, c. 171, s. 35.

Private  
road,  
King’s High-  
way inter-  
sections in  
unorganized  
territory  
R.S.O. 1970,  
c. 202

## PART II

### CONTROLLED-ACCESS HIGHWAYS

**33.** The Lieutenant Governor in Council may designate any part of the King’s Highway as a controlled-access highway. R.S.O. 1960, c. 171, s. 36.

Controlled-  
access  
highway,  
designation

**34.**—(1) In this section, “road” includes an unopened road allowance.

Interpre-  
tation

(2) Subject to the approval of the Board, the Minister may close any road, other than a highway that is under the jurisdiction and control of the Department, that intersects or runs into a controlled-access highway.

Closing of  
intersecting  
municipal  
roads

(3) The Board may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons, including municipalities and local boards thereof, as the Board determines, and may further direct that particulars of claims in respect of land injuriously affected by the closing and particulars of objections to the closing shall be filed with the Board and the Minister within such time as the Board directs.

Application  
for approval

(4) Upon the hearing of the application, the Board may make an order refusing its approval or granting its approval upon such terms and conditions as it considers proper.

Powers of  
Board

(5) The Minister or a person, including a municipality or local board thereof, that has filed particulars of a claim or objection may, with leave of the Court of Appeal, appeal to that court from any order made under subsection 4, and subsections 4 and 5 of section 12 apply *mutatis mutandis* thereto. R.S.O. 1960, c. 171, s. 37 (1-5).

Appeal

(6) Any road heretofore or hereafter closed under this section by the Minister in accordance with the approval of the Board by the placing or erecting of a fence, barricade or other work on the limit of a controlled-access highway shall be deemed to have been thereby legally closed. 1968, c. 49, s. 2.

Effect of  
physical  
closing



Interpre-  
tation

**35.**—(1) In this section, “centre point of an intersection” is the point where the centre line of the through part or parts of a controlled-access highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the controlled-access highway.

Controlled-  
access  
highways,  
control

(2) Notwithstanding any general or special Act, regulation, by-law or other authority, no person shall, except under a permit therefor from the Minister,

- (a) place, erect or alter any building, fence, gasoline pump or other structure or any road within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (b) place any tree, shrub or hedge within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (c) sell, offer or expose for sale any vegetables, fruit or other produce or any goods or merchandise upon or within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (d) place, erect or alter any power line, pole line or other transmission line within one-quarter mile of any limit of a controlled-access highway;
- (e) display any sign, notice or advertising device, whether it contains words or not, other than one sign not more than two feet by one foot in size displaying the name or the name and occupation of the owner of the premises to which it is affixed or the name of such premises within one-quarter mile of any limit of a controlled-access highway;
- (f) use any land, any part of which lies within one-half mile of any limit of a controlled-access highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers; or
- (g) construct or use any private road, entranceway, gate or other structure or facility as a means of access to a controlled-access highway.

No authori-  
zation by  
others

(3) No person shall authorize or permit any act prohibited by subsection 2.

Application

(4) The Minister may order that subsection 2 or such clauses thereof as he specifies do not apply within the limits of any city, town or village or such parts thereof as he specifies.

Notice to  
remove, etc.

(5) The Minister may give notice to the owner of any land requiring him,

- (a) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line placed, erected or altered; or
- (b) to remove therefrom or alter thereon any sign, notice or advertising device displayed; or
- (c) to close up any private road, entranceway, gate or other structure or facility constructed or maintained as a means of access to a controlled-access highway,

in contravention of subsection 2.

(6) Every notice given under subsection 5 shall be in writing and shall be served personally or by registered letter, and in the case of service by registered letter shall be deemed to have been received on the second day following the mailing thereof.

Service of  
notice

(7) Where the person to whom notice is given under subsection 5 fails to comply with the notice within thirty days after its receipt, the Minister may in writing direct any officer, employee or agent of the Department to enter upon the land of such person and do or cause to be done whatever is necessary to remove or alter the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line, sign, notice or advertising device, or to close up the private road, entranceway, gate or other structure or facility as required by the notice.

Failure to  
comply  
with notice

(8) Every person who contravenes any of the provisions of subsection 2 or 3 or who fails to comply with a notice given under subsection 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for any subsequent offence.

Offence

(9) Where a notice given under subsection 5 has been complied with, the Minister shall make due compensation to the owner of the land if the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line, sign, notice or advertising device, private road, entranceway, gate or other structure or facility was placed, erected, altered, constructed or used, as the case may be,

Compensation

- (a) before the 24th day of March, 1950, and in compliance with *The Highway Improvement Act*, being chapter 56 of the Revised Statutes of Ontario, 1937, and the regulations thereunder; or
- (b) before the day on which the controlled-access highway was so designated and in compliance with *The Highway Improvement Act* that was in force on that day; or
- (c) in compliance with a permit therefor, in which case the making of compensation is subject to the provisions of the permit.

- Procedure (10) Every claim for such compensation shall be determined in accordance with subsections 2 to 5 of section 12.
- Permits (11) The Minister may issue permits under this section in such form and upon such terms and conditions as he considers proper and may in his discretion cancel any such permit at any time.
- Fee (12) The Minister may prescribe the fee to be paid for any permit or class of permit under this section. R.S.O. 1960, c. 171, s. 38.

Service  
roads

**36.** The Minister and any municipality may enter into agreements for the establishment, construction and apportionment of the cost of roads within the municipality for the purpose of providing means of access to a controlled-access highway at a point where access is permitted. R.S.O. 1960, c. 171, s. 40.

### PART III

#### SECONDARY HIGHWAYS

Secondary  
highways,  
designation

**37.** The Lieutenant Governor in Council may designate any highway as a secondary highway and thereupon Part I and all the other provisions of this Act and the regulations that apply to the King's Highway apply *mutatis mutandis* to such secondary highway. R.S.O. 1960, c. 171, s. 41.

### PART IV

#### TERTIARY ROADS

Tertiary  
roads,  
designation

**38.**—(1) The Lieutenant Governor in Council may designate an existing road that is in whole or in part in territory without municipal organization as a tertiary road, and thereupon the provisions of this Act and the regulations that apply to the King's Highway, except sections 30 and 31, apply *mutatis mutandis* to such tertiary road. R.S.O. 1960, c. 171, s. 42 (1); 1964, c. 37, s. 2.

maintenance

(2) Subject to subsections 4 and 5, a tertiary road shall be maintained by the Department, but such maintenance does not include the clearing or removal of snow therefrom or the application of chemicals or abrasives to the icy surfaces thereof. R.S.O. 1960, c. 171, p. 42 (2); 1965, c. 45, s. 2.

liability  
for  
damages

(3) No action shall be brought against the Crown for damages caused by the default of the Department in maintaining a tertiary road, and the Crown is not liable for any damage sustained by any person using a tertiary road.

snow  
removal

(4) The Minister may enter into an agreement with any person for the removal of snow from a tertiary road or the application of chemicals or abrasives to the ice surfaces thereof, and the

agreement shall provide that not more than 50 per cent of the cost of the work shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 171, s. 42 (3, 4).

(5) Where the Minister considers it desirable that persons who own land in territory without municipal organization in which a tertiary road is situate should establish a local roads area and maintain it under *The Local Roads Boards Act* or elect road commissioners and maintain it under *The Statute Labour Act* or become incorporated under *The Municipal Act* or otherwise contribute to its maintenance, it shall not be maintained by the Department unless the interested persons enter into an agreement with the Minister for such maintenance, and the agreement shall provide that not more than 50 per cent of the cost of the work shall be paid out of moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 171, s. 42 (5); 1968, c. 49, s. 3.

maintenance  
contribu-  
tions  
R.S.O. 1970,  
cc. 256, 445,  
284

## PART V

### RESOURCE ROADS

**39.**—(1) The Lieutenant Governor in Council may designate a tertiary road as a resource road.

Resource  
roads,  
designation

(2) Sections 53, 64, 65, 66, 67 and 70 of *The Highway Traffic Act* do not apply to a resource road or to vehicles operated upon a resource road, as the case may be. R.S.O. 1960, c. 171, s. 43.

Load  
limits,  
etc., do not  
apply  
R.S.O. 1970,  
c. 202

## PART VI

### INDUSTRIAL ROADS

**40.**—(1) The Minister may designate as an industrial road a private road that he considers necessary for the development or operation of the lumbering, pulp or mining industry but which in his opinion should also be used by the public for road purposes other than those of the industry.

Industrial  
roads,  
designation

(2) The Minister and the owner of an industrial road may enter into an agreement for the maintenance of the industrial road by the owner, and as long as the owner permits the public to use the industrial road the Minister may direct payment out of the moneys appropriated therefor by the Legislature of such proportion of the cost of maintenance as he considers requisite.

Maintenance

(3) Notwithstanding any other Act, an industrial road remains a private road under the jurisdiction and control of the owner, but subject to the use of the public as described in subsections 1 and 2. R.S.O. 1960, c. 171, s. 44.

Jurisdiction  
and control



## PART VII

## COUNTY ROADS

Establish-  
ment of  
system

**41.**—(1) A county may by by-law adopt a plan of county road construction and maintenance and establish a county road system by designating the roads in any municipality in the county that are to form the system and may include in the system such boundary-line roads between the county and any other county or between the county and a city or separated town as are agreed upon by the municipalities interested.

General  
rate

(2) The by-law shall provide for the levying of a general annual rate upon all the municipalities in the county not separated therefrom for municipal purposes unless the Minister is of opinion that on account of the remoteness of a municipality from the roads in the county road system it is inequitable that the rate should be levied in such municipality, in which case the by-law shall exempt such municipality accordingly, but the representative or representatives in the county council of a municipality so exempt shall not vote upon a by-law passed under this Part, and for the purposes of section 45 the equalized assessment of a municipality so exempt shall not be included in ascertaining the total equalized assessment of the county.

Application  
of proceeds  
of rate

(3) All moneys raised under the by-law shall be applied in the construction and maintenance of roads in the county road system and to any expenditure properly chargeable to the county road system under this Part. R.S.O. 1960, c. 171, s. 45 (1-3).

Status of  
land  
acquired for  
widening  
county road

(4) Where a county acquires land for the purpose of widening a county road, the land so acquired, to the extent of the designated widening, forms part of the road and is included in the county road system, and subsection 7 does not apply thereto. 1962-63, c. 55, s. 6.

Amendment

(5) A county may, by by-law, amend a by-law passed under this section in any manner, including the addition of roads to, or the removal of roads from, the county road system.

Consolidat-  
ing by-law

(6) A county may by by-law consolidate the by-law establishing its county road system and all by-laws amending such by-law, and may from time to time by by-law consolidate any such consolidating by-law and all by-laws amending such consolidating by-law.

Approval

(7) Every by-law passed under this section shall be submitted to the Minister for approval by the Lieutenant Governor in Council and the Lieutenant Governor in Council may approve the by-law in whole or in part and, where the by-law is approved in part only, it shall be in force and take effect only so far as approved, but it is not necessary for the county to pass any further by-law amending the original by-law or repealing any part

thereof that has not been approved, and every such by-law as so approved is in force and has effect on and after the day on which the approval is given.

(8) Every road that forms part of a county road system vests in the county and is under the jurisdiction and control of the county on and after the day on which the by-law designating the road is approved by the Lieutenant Governor in Council.

Vesting  
of roads  
in county

(9) Every road that is removed from a county road system vests in the local municipality in which it is situate and is under the jurisdiction and control of that municipality on and after the day on which the by-law removing the road is approved by the Lieutenant Governor in Council.

Revesting  
of roads  
in local  
municipality.

(10) Where the Minister is of opinion that a road that forms part of a county road system is not of sufficient importance to be constructed and maintained as part of the system, the Lieutenant Governor in Council may revoke the approval of the designation of the road as part of the system, and the road thereupon vests in the local municipality in which it is situate. R.S.O. 1960, c. 171, s. 45 (4-9).

Revocation  
of approval

**42.—**(1) Where a county road system is established under this Part, the county council shall appoint by by-law three or five persons who are residents of the county, but who need not be members of the council, who shall constitute a committee to direct the work to be done on the county road system.

County road  
committee

(2) Where the committee consists of three members, one member shall be appointed and hold office for a term of three years, one member shall be appointed and hold office for a term of two years and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and hold office for a term of three years, and where the committee consists of five members, one member shall be appointed and hold office for a term of five years, one member shall be appointed and hold office for a term of four years, one member shall be appointed and hold office for a term of three years, one member shall be appointed and hold office for a term of two years and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and hold office for a term of five years.

Term of  
office

(3) A member of the committee is eligible for reappointment upon the expiry of his term of office.

Reappoint-  
ment

(4) A member of the committee may be removed by a vote of two-thirds of the members of the county council present and voting thereon at a regular meeting of the council.

Removal  
from office

(5) Where a member of the committee is so removed or dies or resigns his office, the county council may appoint some other

Vacancies

person to fill the vacancy for the remainder of the term for which the person so removed, dying or resigning was appointed.

Warden  
*ex officio*  
member

(6) The warden of the county for the time being is *ex officio* a member of the committee and may sit and vote thereon.

Suburban  
road com-  
missioners  
as county  
road  
committee

(7) Where a county road system is established under this Part in a county in which a suburban roads commission has been appointed, the county may by by-law provide that the members from time to time of the suburban roads commission constitute the committee to direct the work to be done on the county road system and in such case this section does not apply. R.S.O. 1960, c. 171, s. 46.

County road  
superin-  
tendent

R.S.O. 1970,  
c. 366

**43.**—(1) Where a county road system is established under this Part, the county shall by by-law appoint a county road superintendent who shall be a professional engineer registered as a civil engineer under *The Professional Engineers Act*.

Duties

(2) The county road superintendent shall, under the direction of the county road committee, administer and manage the county road system.

Vacancy

(3) Where a vacancy occurs in the office of county road superintendent, the county shall appoint another qualified person to the office.

Copy of  
by-law to  
be sent to  
Minister

(4) A copy of every by-law appointing a county road superintendent or dealing with his salary and allowance shall be transmitted to the Minister within thirty days of the passing thereof and has no force or effect until approved in writing by the Minister, and when so approved shall not be repealed or amended without the approval in writing of the Minister.

Members of  
councils  
not to be  
appointed  
R.S.O. 1970,  
c. 284

(5) Notwithstanding *The Municipal Act*, no member of the county council and no member of the council of a local municipality in the county shall be appointed or act as county road superintendent or be employed by the county road superintendent in any capacity, and any such member who is appointed or acts or is employed in contravention of this subsection forfeits his seat and is disqualified from sitting or voting in the council of which he was a member at the time of the contravention. R.S.O. 1960, c. 171, s. 47.

Payment,  
how to  
be made

**44.** The disbursement of all moneys pertaining to the county road system shall be made by the county treasurer only on the certificate of the county road superintendent approved by the county road committee as certified under the hand of the chairman thereof. R.S.O. 1960, c. 171, s. 48.

Debentures

**45.**—(1) Subject to subsection 2, a county may, without the assent of the electors, pass by-laws to raise by debentures payable in not more than twenty years in the manner provided by *The*

*Municipal Act* such sums as may be necessary to meet the actual expenditure for the construction of roads under this Part. R.S.O. 1970, c. 284

(2) Where a county has paid over moneys raised on sinking fund account to the treasurer of Ontario under section 315 of *The Municipal Act*, being chapter 249 of the Revised Statutes of Ontario, 1960, the amount to be raised for the construction of roads under subsection 1 may be a sum not exceeding the total amount so in the hands of the Treasurer of Ontario with 5 per cent of the equalized assessment of the county added thereto. Limit of amount of county rate

(3) A county may agree with a chartered bank or loan or trust corporation or with any person for temporary advances to meet the cost of construction of roads under this Part, but the total of such temporary advances shall not exceed in any one year the amount to be provided by the county together with the proportion of aid to be received from the Province, and the amount receivable from cities and towns as contributions on account of suburban roads under Part VIII, and the county may pass by-laws to raise by debentures in the same manner as provided in subsection 1 such sums as may be necessary to repay such temporary advances. Temporary advances R.S.O. 1960, c. 171, s. 49.

**46.**—(1) Every county that has established a county road system shall submit to the Minister for his approval a by-law covering the estimated expenditure on roads for the calendar year not later than the 31st day of March of the year in which the expenditure is to be made, and such by-law shall include expenditures to be made by any suburban roads commission in the county. Submission of by-law covering estimated expenditure R.S.O. 1960, c. 171, s. 50 (1).

(2) A county may at any time within the calendar year in which the expenditure is to be made submit to the Minister for his approval a by-law covering an estimated expenditure on roads supplementing the by-law submitted under subsection 1. Supplementary by-law R.S.O. 1960, c. 171, s. 50 (2); 1962-63, c. 55, s. 7.

(3) No subsidy shall be granted to a county for work undertaken by the county that has not been provided for by a by-law approved by the Minister. Subsidy R.S.O. 1960, c. 171, s. 50 (3).

**47.**—(1) Where a plan of road construction and maintenance under this Part is being carried out, the county shall annually, and may with the consent of the Minister at any time during the progress of the work, submit to the Minister, Annual statement to Minister

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the county road superintendent that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;



- (c) a declaration of the county treasurer that the statement of receipts and expenditures is correct; and
- (d) a petition for the payment of the grant authorized by resolution of the council, or in the case of an interim statement, by resolution of the county road committee.

Payment  
to county

(2) Upon receipt of the statement, declarations and petition, the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent, or in the case of a bridge or culvert an amount not exceeding 80 per cent, of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final. R.S.O. 1960, c. 171, s. 51 (1, 2).

Contribu-  
tion to be  
deducted

(3) Where a contribution has been made from any source whatsoever towards an expenditure to which this section applies, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. 1962-63, c. 55, s. 8 (1).

Advance  
payments

(4) Notwithstanding subsection 1 but subject to section 46, the Minister may, in his discretion, direct payment to the county treasurer under this section, on or after the 1st day of May in any year, of a sum not exceeding 25 per cent,

- (a) of the amount paid by the Minister under this section in respect of the preceding calendar year; or
- (b) of the average annual payments made by the Minister under this section in respect of the five preceding calendar years. 1962-63, c. 55, s. 8 (2).

Roads to be  
county roads

**48.** The roads forming part of a county road system shall be maintained and kept in repair by the county, and in all cases the Minister shall determine the amount of the expenditure for construction or maintenance or for the purchase or maintenance of road machinery, plant and equipment that is properly chargeable to road improvement under this Act, and his decision is final. R.S.O. 1960, c. 171, s. 52.

County road  
system, con-  
struction  
and main-  
tenance

**49.** Every road constructed or maintained as part of a county road system shall be constructed and maintained in accordance with the requirements of the Minister. R.S.O. 1960, c. 171, s. 53.

County ex-  
penditure  
may include  
ferry service

**50.** Expenditure for which a county may be entitled to aid to county roads under this Act may include the maintenance by the county of a ferry service that forms a connecting link of a county road system or forms a link between the county road systems of adjacent counties, and may also include the cost of purchasing,

establishing and equipping such ferry service, but when so aided, the equipment, service and tolls therefor are subject to the approval of the Minister. R.S.O. 1960, c. 171, s. 54.

**51.**—(1) Where under *The Municipal Act* a county has jurisdiction over a bridge that is more than twenty feet in span and the bridge is not in the county road system, the expenditure involved in constructing and maintaining the bridge under the supervision of the county road superintendent in accordance with plans approved by an officer of the Department designated by the Minister shall be deemed to form part of the expenditure in carrying out the plan of county road construction and maintenance, and debentures issued by a county after the 8th day of April, 1926, for the construction of any such bridge are legal, valid and binding upon the county and the ratepayers thereof notwithstanding that the by-law authorizing the issue thereof has not been submitted to and did not receive the assent of the ratepayers in accordance with *The Municipal Act*.

County expenditure may include county bridges  
R.S.O. 1970, c. 284

(2) The Minister may direct the payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount not exceeding 80 per cent of the cost of constructing and maintaining any such bridge more than twenty feet in span in accordance with plans approved by an officer of the Department designated by the Minister.

Aid to county bridges

(3) A county may by by-law provide that jurisdiction over every bridge of twenty feet or less in span that is not included in the county road system shall be transferred to the local municipality or municipalities in which it is situate, and thereupon all the rights, liabilities and obligations of the county with respect to such bridge are transferred to and vested in and imposed upon such local municipality or municipalities.

Transfer of small bridges

(4) A county, with the approval of the Lieutenant Governor in Council, may by by-law provide for the closing of any bridge over which the county has jurisdiction under *The Municipal Act* or the substitution therefor of any other structure and for that purpose may exercise as to such bridge or other structure and the approaches thereto all the powers of a county as to roads and bridges in a county road system. R.S.O. 1960, c. 171, s. 55.

Diverting road to avoid construction of bridge

**52.** Where a county road intersects a road that is not a county road, the continuation of the county road to its full width across the road so intersected is a part of the county road system, except in the case of an intersection by a county road of the King's Highway, in which case section 18 applies. R.S.O. 1960, c. 171, s. 56.

Intersection of other roads by county road

**53.** A county is not liable for the construction or maintenance of sidewalks on any road in its county road system. R.S.O. 1960, c. 171, s. 57.

Sidewalks excepted

Contribution of cities, etc., to improvement of county roads

**54.** Where a county road leading or adjacent to a city or separated town is or is to be improved or requires or will require the expenditure of a greater amount for maintenance to meet in any such case the requirements of increased, heavy or other extraordinary traffic to or from the city or separated town beyond the requirements which, but for the existence of the city or separated town, would be deemed those of a standard road for the locality, the city or separated town by by-law passed with the assent of at least two-thirds of the members of the council thereof may agree with the county to contribute such additional cost, or a proper proportion of the cost, or that the amount of the contribution of the city or separated town shall be determined by arbitration under *The Municipal Act*, and may, without the assent of the electors, provide by by-law for the issue of debentures payable in not more than twenty years from the date of the issue thereof to raise the amount agreed upon or awarded, or may agree with the county for the payment of such amounts in annual instalments to be raised by an annual special rate upon the rateable property in the city or separated town. R.S.O. 1960, c. 171, s. 58.

R.S.O. 1970, c. 284

Agreement between local municipality and county for extra work

**55.—(1)** A local municipality that is not separated from the county and the county or the suburban roads commission may enter into an agreement in writing providing for the construction, widening or maintenance of the whole or any part of any county or suburban road in the local municipality, or for the construction or maintenance of special works along or across such road.

Either party may do work; consent of Minister

(2) The agreement shall specify the party that is to do the work and the manner in which and the time or times at which the other party is to pay its share of the expenditure made by the party doing the work, but no work shall be done until the agreement has been approved in writing by the Minister.

Acquisition of land by local municipality

(3) Where the agreement provides that the land required for the widening of the road is to be acquired by the local municipality, the local municipality, notwithstanding section 398 of *The Municipal Act*, may pass by-laws for widening the road and acquiring by purchase or otherwise or expropriating such land, and the provisions of *The Municipal Act* as to the acquiring, occupying and taking of land for municipal purposes apply to the acquiring, occupying or taking of land under any such by-law.

Transfer to county

(4) The local municipality shall convey the land so acquired to the county, and thereupon the land becomes a part of the road and is included in the county road system and, where the road has been designated and approved as a suburban road under Part VIII, the land becomes part of the suburban road.

Apportionment of cost of construction

(5) The agreement shall provide the proportion or proportions in which the cost of the work or parts thereof is or are to be borne by the respective parties, but need not require that the cost of all

parts be shared or that the cost sharing of various parts of the work be in the same proportion, provided that the local municipality shall be responsible for the entire cost of,

- (a) installing sanitary sewers except to the extent that they replace existing facilities;
- (b) maintaining sanitary sewers;
- (c) extra capacity in storm sewers required for drainage from land other than land within the right-of-way of the road or the road as widened and which was not accommodated on the road prior to the agreement; and
- (d) maintaining sidewalks.

(6) Where the local municipality and the county or the suburban roads commission are unable to agree upon a term or condition of an agreement authorized by this section or where either the local municipality and the county or the suburban roads commission refuses to enter into such an agreement, the Minister may prescribe such term or condition or may require such an agreement to be entered into, and such agreement may be enforced in the same manner as an agreement executed by the local municipality and by the county or the suburban roads commission.

Failure  
to agree

(7) The local municipality may pass by-laws to raise by debentures such sum as may be necessary to meet its share of the cost under an agreement entered into under this section, and it is not necessary to obtain the assent of the electors to any such by-law or to observe the other formalities in relation thereto prescribed by *The Municipal Act*, or such share may be assessed under *The Local Improvement Act* according to the report of an engineer.

Debentures  
for local  
municipality's  
share

R.S.O. 1970,  
cc. 284, 255

(8) Where the Minister has approved an agreement under this section, there may be included in the statement of expenditures on roads under the jurisdiction of the local municipality, submitted to the Minister under this Act for the purpose of determining the grant payable to the local municipality out of moneys appropriated therefor by the Legislature, those costs incurred by the local municipality under the agreement that, if incurred by the local municipality in respect of roads under its jurisdiction and control, could be included in such statement.

Subsidy to  
local  
municipality

(9) Where the agreement provides that the pavement or a part thereof is to be maintained and kept in repair by the local municipality and the local municipality makes default in so doing and the county or the suburban roads commission becomes liable under section 427 of *The Municipal Act* for damage suffered by or occasioned to any person in consequence of such default, the county or the suburban roads commission is entitled to the remedy over against the local municipality provided for by section 434 of *The Municipal Act*. 1967, c. 34, s. 3.

Remedy  
over



Agreement  
between  
county and  
urban muni-  
cipality re  
county road  
extensions,  
etc.

**56.**—(1) Where a road in an urban municipality not separated from the county is not a part of the county road system but is an extension of or connects roads in the county road system, the county shall enter into an agreement in writing with the urban municipality for the maintenance of such road, and, if it is in the public interest that such road be constructed, for the construction thereof.

Failure  
to agree

(2) Where the county and the urban municipality are unable to agree whether it is in the public interest that such road be constructed, the Minister shall decide the issue and his decision is final.

Idem

(3) Where a county and an urban municipality are unable to agree upon a term or condition or the form of an agreement required to be entered into under subsection 1 or where either refuses to enter into such an agreement, the Minister may prescribe the terms, conditions or form thereof, or all of them, or may require such an agreement to be entered into, and such agreement may be enforced in the same manner as an agreement executed by the county and the urban municipality.

Approval  
of  
Minister

(4) The agreement has not force or effect until approved in writing by the Minister.

Either  
party may  
do work

(5) The agreement shall specify the party that is to do the work and the manner in which and the time or times at which the other party is to pay its share of the expenditure made by the party doing the work.

How con-  
struction  
cost to  
be borne

(6) In the case of the construction of a pavement twenty-two feet or less in width, the agreement shall provide that the county is to pay the total cost of such construction.

Idem, in  
case of  
wider  
pavement

(7) In the case of the construction of a pavement more than twenty-two feet in width, the agreement shall provide that the county is to pay that part of the total cost of such construction that bears the same proportion to such total cost as the area of a longitudinal strip of the pavement twenty-two feet in width bears to the total area of such pavement or such approximation to that proportion as is agreed upon.

Idem, in  
case of  
widening  
existing  
pavement

(8) Where there is an existing pavement twenty-two feet or less in width and the urban municipality desires to widen it, the agreement shall provide that the county is to pay that part of the total cost of constructing the additional width of pavement that bears the same proportion to such total cost as the area of that part of such additional width which together with the existing pavement would provide a total paved width of twenty-two feet bears to the total area of such additional width of pavement or such approximation to that proportion as is agreed upon.

(9) The total cost mentioned in subsections 6, 7 and 8 includes the cost of any necessary grading, shouldering, under-drainage or base construction, but does not include the cost of the construction of curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the urban municipality.

Total cost,  
what to  
include

(10) In the case of the maintenance of a pavement or roadway twenty-two feet or less in width, the agreement shall provide that the county is to pay the total cost of such maintenance.

How main-  
tenance  
cost to be  
borne

(11) In the case of the maintenance of a pavement or roadway more than twenty-two feet in width, the agreement shall provide that the county is to pay that part of the total cost of such maintenance that bears the same proportion to such total cost as the area of a longitudinal strip of the pavement or roadway twenty-two feet in width bears to the total area of such pavement or roadway or such approximation to that proportion as is agreed upon. R.S.O. 1960, c. 171, s. 60 (1-11).

Idem, in  
case of  
wider  
roadway

(12) The total cost mentioned in subsections 10 and 11 includes the cost of the removal of snow and the application of chemicals and abrasives and the removal thereof, but does not include the cost of the maintenance of curbs, gutters, catch basins, sanitary sewers or drains or any other special work, all of which cost shall be borne by the urban municipality. R.S.O. 1960, c. 171, s. 60 (12); 1962-63, c. 55, s. 10 (1).

Total cost,  
what to  
include

(13) Where a part of the pavement or roadway is occupied by the track allowance of a street railway, then for the purposes of an agreement under this section such track allowance shall be deemed not to form part of the pavement or roadway, and, in determining the cost of construction or maintenance that is to be borne by the respective parties, the cost of constructing or maintaining such track allowance, including the pavement thereof, shall be excluded from the total cost and the area of such track allowance shall be excluded from the total area of the pavement or roadway.

In case  
of street  
railway

(14) The part of the cost of the construction of a pavement and the maintenance of a pavement or roadway that is borne by the county under the agreement shall be deemed to be properly chargeable to the county road system and may, for the purpose of determining the grant payable to the county out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the county under this Part. R.S.O. 1960, c. 171, s. 60 (13, 14).

Subsidy  
to county

(15) The part of the cost of the construction of a pavement and the maintenance of a pavement or roadway, including the construction and maintenance of curbs, gutters, catch basins and any other special work properly chargeable to road improvement

Subsidy to  
urban  
municipality

that is borne by the urban municipality under the agreement, may, for the purpose of determining the grant payable to the urban municipality out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the urban municipality under Part X, but the cost of constructing or maintaining any sanitary sewer or drain shall not be included in such statement. R.S.O. 1960, c. 171, s. 60 (15); 1962-63, c. 55, s. 10 (2).

Construc-  
tion or main-  
tenance of  
culvert or  
bridge, how  
cost to be  
borne

(16) In the case of the construction or maintenance of a culvert or bridge on, over or across which the roadway passes and which is under the jurisdiction and control of the urban municipality, the agreement shall provide that the cost of such construction or maintenance, exclusive of any part thereof that is incurred to provide for sidewalks or for the track allowance of a street railway, is to be borne 50 per cent by the county and 50 per cent by the urban municipality.

Subsidy to  
county

(17) The part of the cost of the construction or maintenance of such culvert or bridge that is to be borne by the county under the agreement shall be deemed to be properly chargeable to the county road system and may be included in the statement of expenditures submitted to the Minister by the county under this Part, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount not exceeding 80 per cent thereof.

Subsidy to  
urban  
municipality

(18) The part of the cost of the construction or maintenance of such culvert or bridge that is to be borne by the urban municipality may, for the purpose of determining the grant payable to the urban municipality out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the urban municipality under Part X.

Jurisdiction

(19) A road that is constructed or maintained under this section remains under the jurisdiction and control of the urban municipality and it may pass by-laws to raise by debentures such sums as may be necessary to meet its share of the cost of construction and it is not necessary to obtain the assent of the electors to any such by-law or to observe the other formalities in relation thereto prescribed by *The Municipal Act*, or such share may be assessed under *The Local Improvement Act* according to the report of an engineer. R.S.O. 1960, c. 171, s. 60 (16-19).

R.S.O. 1970,  
cc. 284, 255

County to  
make con-  
tribution  
towards  
other roads  
in urban  
municipality

**57.—**(1) In addition to the amount that the county may expend in any year on county roads in an urban municipality not separated from the county either directly or pursuant to an agreement under section 55 and on county road extensions or connecting links in such urban municipality pursuant to an agreement under section 56, the county shall in the same year make a contribution towards the construction and maintenance of other roads in such urban municipality.

(2) Such contribution may be in the form of work carried out by the county at the request of the urban municipality that is properly chargeable to road improvement under Part X, or in the form of a cash payment towards work carried out by the urban municipality under Part X, or a combination of such forms.

Form of contribution

(3) Such contribution shall not be less in total value than 25 per cent or more in total value than 50 per cent of the amount levied on the urban municipality for county road purposes in the same year under the by-law mentioned in section 41, exclusive of any part thereof levied for the purpose of paying off the urban municipality's share of any debenture or other debt of the county, unless the value of the work properly chargeable to road improvement under Part X and actually performed on such other roads in the same year is less than 25 per cent of the amount so levied, and in no case shall such contribution exceed the value of such work so actually performed.

Minimum and maximum contribution

(4) Where in any year such contribution or a part thereof is to take the form of a cash payment, the urban municipality shall, not later than the 15th day of November in that year, submit to the county road superintendent a certified statement showing in detail the location, nature and extent of the work done on such other roads by the urban municipality and the actual expenditures made thereon, and the county shall pay the amount of the contribution remaining due to the urban municipality under this section on or before the 31st day of December in the same year.

How to be paid

(5) The contribution made by the county under this section shall be deemed to be properly chargeable to the county road system and may be included in the statement of expenditures submitted to the Minister by the county under this Part, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent thereof.

Subsidy to county

(6) An agreement for the construction of a county road extension or connecting link under section 56 may provide that the county is to be relieved of its obligation to pay any contribution under this section so long as the amount expended by the county under the agreement is greater than the amount that would have been paid by it from year to year under this section, and in that case this section does not apply. R.S.O. 1960, c. 171, s. 61.

Agreement may exempt county from this section

**58.**—(1) Sections 436 and 438 of *The Municipal Act* do not apply to a bridge or road crossing or forming a boundary line between counties or between a county and a city or separated town, where the county in the latter case, or one or more of such counties in the former case, have adopted a plan of county road construction and maintenance under this Part, and the plan includes such bridge or road.

Disputes as to maintenance, etc., of bridges and roads  
R.S.O. 1970, c. 284



Disputes as to county boundary lines and bridges

(2) Where there is a difference between two or more municipalities in respect of any such bridge or road as to the municipality upon which the obligation rests, as to the construction and maintenance of the bridge or road or as to the proportions in which the municipalities should respectively contribute thereto, or where two or more municipalities are unable to agree as to any action, matter or thing to be taken or done in respect of such bridge or road, every such difference shall be determined by the Board upon an application by any municipality interested in such bridge or road.

Hearing

(3) The Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality interested, and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities in regard to such bridge or road, and the Board may make such order as it considers just and proper, and may by the order fix and determine the amount or proportion that each municipality shall pay or contribute towards the construction and maintenance of such bridge or road.

Duration of order

(4) An order of the Board under this section is binding upon all the municipalities interested for such period as the Board determines. R.S.O. 1960, c. 171, s. 62.

Powers of county over roads assumed

**59.** A county has, in respect of the roads included in the county road system, all the rights, powers, benefits and advantages conferred either by by-law or agreement or otherwise upon the local municipality or local municipalities that had jurisdiction over the roads before they were included in the county road system, and the county may sue thereon in the same manner and to the same extent as the local municipality or municipalities might have done if the roads had not been included in the county road system. R.S.O. 1960, c. 171, s. 63.

Restrictions

**60.**—(1) A county in which a county road system has been established has, with respect to land lying within a distance of 150 feet from any limit of a county road, all the powers conferred on a local municipality by section 35 of *The Planning Act*.

R.S.O. 1970, c. 349

Conflict with local by-law

(2) In the event of conflict between a by-law passed under subsection 1 or a predecessor thereof by a county and a by-law passed under section 35 of *The Planning Act* or a predecessor thereof by the local municipality in which the land is situate, the by-law of the county prevails to the extent of such conflict, but in all other respects the by-law passed by the local municipality remains in full force and effect. R.S.O. 1960, c. 171, s. 64.

Gas pumps and signs on county roads

**61.**—(1) A county may, with respect to the roads under its jurisdiction and control, by by-law prohibit or regulate,

(a) the placing, erecting or altering of any gasoline pump within 150 feet of any limit of a road; and

(b) the displaying of any sign, notice or advertising device within one-quarter mile of any limit of a road.

(2) A by-law passed under this section may provide for the issuing of permits for the placing, erecting, altering or displaying of any gasoline pump, sign, notice or advertising device and may prescribe the form, terms and conditions thereof and the fees to be paid therefor, and may prescribe penalties for contravention of the by-law.

Permits

(3) A county shall submit a by-law passed under this section to the Minister for his approval in writing and the by-law shall be in force and effect only on and after the day on which the approval is given. R.S.O. 1960, c. 171, s. 65.

Approval

**62.** The Minister may arrange with the Government of Canada for the construction or maintenance, under the supervision of the county road superintendent and in accordance with the requirements of the Minister, of any road in a township or part of a township constituting an Indian reserve or of any road under the control of the Government of Canada that lies within the limits of a municipality not separated from the county for municipal purposes where the road forms an extension of or connecting link in a county road system, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to the percentage of the net expenditure made by the county under such arrangement as is provided for in section 47. R.S.O. 1960, c. 171, s. 67.

Roads in Indian reserves and other lands under the control of the Government of Canada

PART VIII

SUBURBAN ROADS

**63.**—(1) The Lieutenant Governor in Council, upon application of a county in which a county road system is established under Part VII, may direct that a commission be appointed in respect of each city or separated town in the county and, subject to the approval of the Minister, each commission may designate roads in the county road system as suburban roads and the city or separated town shall contribute towards the construction and maintenance of such roads in accordance with this Part.

Suburban roads commission

(2) The construction and maintenance of suburban roads and the expenditure thereon shall be directed by the suburban roads commission.

Duties

(3) In the case of a city having a population of less than 50,000 or of a separated town, the suburban roads commission shall be composed of three persons, one to be appointed by the city or separated town, one by the county, and the third to be agreed

Composition, in city of less than 50,000 or town

upon by the two members so appointed, and in default of such agreement to be appointed by the Lieutenant Governor in Council.

Idem, in  
city of  
50,000 or  
more

(4) In the case of a city having a population of 50,000 or more, the suburban roads commission shall be composed of five persons, two to be appointed by the city, two by the county and the fifth to be agreed upon by the four members so appointed, and in default of such agreement to be appointed by the Lieutenant Governor in Council.

Time for  
making  
appoint-  
ments

(5) The city or the separated town and the county shall make their appointments of members of the suburban roads commission within thirty days from the date of the order in council directing the commission to be appointed.

Term of  
office

(6) The members of a suburban roads commission shall hold office for a term of five years from the date of the order in council directing the commission to be appointed and no longer, and at the expiration of the period and thereafter at the expiration of every period of five years, the members of a commission shall be appointed as provided in this section, and any member of a commission is eligible for reappointment.

Appoint-  
ment where  
default  
made

(7) Where a city, separated town or county fails to make an appointment as required by this section, the appointment may be made by the Lieutenant Governor in Council.

Removal  
of com-  
missioners

(8) A member of a suburban roads commission may be removed and another person appointed in his place by a vote of two-thirds of the members of the council that appointed him who are present and vote thereon at a regular meeting of the council, if notice of the intention of the council to determine the question of the removal has been given at the next preceding meeting of the council.

Vacancies

(9) Where a member of a suburban roads commission dies or resigns or is removed, the authority by which the member was appointed shall appoint another person to fill the vacancy for the remainder of the term for which the person so dying, resigning or removed was appointed.

Interest in  
contracts

(10) Any member of a suburban roads commission who is, directly or indirectly, interested in a contract with the commission or in which the commission has an interest *ipso facto* ceases to be a member of the commission and the vacancy so created shall be filled under subsection 9.

Incorporation and  
name

(11) Every suburban roads commission is a corporation and the name by which it is to be known shall be fixed by the Lieutenant Governor in Council.

(12) Notwithstanding any general or special Act, no person who is a member of the Assembly or of a municipal council or who is an employee of a municipality is eligible to be a member of a suburban roads commission. R.S.O. 1960, c. 171, s. 68.

Who ineligible to act as member of commission

**64.** A plan and description of the suburban roads designated by a suburban roads commission shall be transmitted by the commission to the Minister within six months from the date of the order in council directing the appointment of the commission, and, after the approval thereof by the Minister, no alterations or amendments thereof shall be made by the commission until approved in like manner. R.S.O. 1960, c. 171, s. 69.

Deposit of plan

**65.**—(1) Suburban roads continue to be county roads under the jurisdiction and control of the county and the construction and maintenance thereof shall continue to be under the supervision of the county road superintendent but subject to the direction of the suburban roads commission, and the sums expended for construction and maintenance may be included in the statements of expenditures provided for in section 47 upon which the grants payable by the Province will be determined and paid.

Suburban roads continue as county roads

(2) The work on suburban roads may be carried on under the supervision of an engineer with the same professional qualifications as a county road superintendent and employed for that purpose by the commission in place of the county road superintendent, and the provisions of this Act apply to such engineer in the same manner as to a county road superintendent, and the declaration of such engineer with respect to work and expenditure on suburban roads shall be accepted in lieu of the declaration of the county road superintendent as required by section 47.

Engineer of commission

(3) Where the county road superintendent has supervision over work on suburban roads, the commission may by resolution, subject to the approval of the Minister, authorize the payment to him of such annual sum in addition to his salary as county road superintendent as is considered proper. R.S.O. 1960, c. 171, s. 70.

Additional compensation to county road superintendent

**66.**—(1) The expenditures on suburban roads shall be borne by the county, the city or separated town and the Province in the proportion of 25 per cent by the county, 25 per cent by the city or separated town and 50 per cent by the Province, but, where expenditure is made on a bridge or culvert, the Minister may direct the Province to bear a greater proportion, not exceeding 80 per cent thereof, in which case the balance of the expenditure shall be divided equally between the county and the city or separated town.

Expenditures



Appropriation may be by resolution of county council

(2) An appropriation for the purposes mentioned in this section may be made annually by resolution of the county council and may be made before the designation by the suburban roads commission of the roads upon which the appropriation is to be expended. R.S.O. 1960, c. 171, s. 71 (1-2).

Limit of contributions by city or town

(3) The amount to be provided by the city or separated town in any year shall not exceed the proceeds of a rate of one-half mill on the dollar of the value of the rateable property of the city or separated town according to the assessment roll on which the rate of taxation for the preceding year was levied as adjusted by the Minister, unless in any year by agreement with the county council the council of the city or separated town by by-law appropriates for work on suburban roads a sum not exceeding the proceeds of a rate of two mills on the dollar of the value of such rateable property as adjusted by the Minister, but such by-law shall not be passed until the county council has appropriated an equal amount for the like purposes to be expended in the same year. 1967, c. 34, s. 4 (1).

Notice to city or town by county clerk

**67.** The clerk of the county shall, not later than the 1st day of March in each year, notify the city or separated town of the amount appropriated by the county for the construction and maintenance of the suburban roads, and the treasurer of the city or separated town shall, not later than the 1st day of November following, transmit the equivalent amount to the treasurer of the county by whom it shall be paid to the order of the suburban roads commission. R.S.O. 1960, c. 171, s. 72.

Provision for contribution by city or town to suburban roads

**68.—**(1) The council of each city or separated town shall provide annually or from time to time an amount equal to that appropriated by the county council for the construction and maintenance of suburban roads, and such amount is a debt due to the county by the city or separated town.

Issue of debentures for city's or town's share

(2) For the purposes of this section, the city or separated town may raise from time to time such sums as may be required for construction by the issue of debentures, as in section 45 provided, but all sums required for the purposes of maintenance shall be provided from the current revenue of the municipality.

Issuing town or city debentures for suburban roads

(3) Where it appears that the rate of one-half mill on the dollar mentioned in subsection 3 of section 66 is not sufficient to carry out permanent or extensive work, the city or separated town, with the approval of the Minister, may raise such further sums by the issue of debentures as are considered necessary, and may apply a portion of the proceeds of the annual rate of one-half mill on the dollar on paying off such debentures.

Assent of electors not required

R.S.O. 1970, c. 284

(4) It is not necessary to obtain the assent of the electors to a by-law for the issue of debentures under this section or to observe the other formalities in relation thereto prescribed by *The Municipal Act*. R.S.O. 1960, c. 171, s. 73.

**69.** No error or omission or insufficiency in the procedure provided for by this Act relieves a county or city or separated town from liability to contribute towards the construction and maintenance of suburban roads, and the treasurer of a city or separated town that is liable to contribute towards the construction and maintenance of suburban roads shall, not later than the 1st day of November in each year, forward to the county treasurer an amount equal to the amount appropriated by the county council for the construction and maintenance of suburban roads in that year, but the amount of such contribution shall be limited as provided by section 66. R.S.O. 1960, c. 171, s. 74.

Informalities not to invalidate proceedings

## PART IX

### TOWNSHIP ROADS

**70.—(1)** Every township in which statute labour has been abolished by by-law shall, by by-law, appoint a township road superintendent who, subject to the direction of the council, shall inspect all roads under the jurisdiction and control of the township and shall lay out and supervise all work on such roads, and the Minister may direct that out of the moneys appropriated therefor by the Legislature 50 per cent, or such greater proportion as he considers requisite, of the salary and expenses of such superintendent paid by the township shall be reimbursed by the Province.

Township road superintendent

(2) A copy of the by-law making such appointment shall be transmitted to the Minister within thirty days of the passing thereof and is subject to the approval of the Minister, and when so approved shall not be repealed or amended without the consent in writing of the Minister.

Approval of by-law

(3) The township road superintendent shall conform to such requirements as the Minister may prescribe.

Superintendent to conform to requirements

(4) The council of a township in which statute labour has been abolished by by-law shall submit annually to the Minister a statement showing the amount of salary and expenses of the township road superintendent paid by the township, together with a declaration of the township treasurer that the statement is correct and also a declaration of the superintendent that he has *bona fide* performed the duties of superintendent, and on receipt of the statement and declarations the Minister may direct the Treasurer of Ontario to pay to the township the amount to which the township is entitled under this section.

Annual statement to Minister

(5) Notwithstanding *The Municipal Act*, no member of the council of the township shall be appointed or act as township road superintendent or be employed by the township road superintendent in any capacity, and any such member who is appointed

Councillors disqualified as township road superintendent. R.S.O. 1970, c. 284

or acts or is employed in contravention of this subsection forfeits his seat and is disqualified from sitting or voting in the council of which he was a member at the time of the contravention.

Appoint-  
ment by  
Minister

(6) Where a township receives aid from the Province in excess of 60 per cent of the cost of work done upon township roads, the Minister may appoint a road superintendent for the purpose of supervising work to be undertaken, and in that case it is not necessary for the township to appoint a road superintendent and the superintendent appointed by the Minister has and may exercise as to the work all the powers of a township road superintendent appointed under subsection 1. R.S.O. 1960, c. 171, s. 75.

Grants in  
aid of town-  
ship road  
work

**71.**—(1) A township in which statute labour has been abolished by by-law may submit to the Minister for approval such plans, specifications or by-laws as he requires for any or all of the following purposes:

1. Grading.
2. Drainage for road purposes.
3. Gravelling, metalling with broken stone, or the construction of any kind of road surface.
4. Dust prevention by oiling, tarring or other means.
5. The systematic maintenance by dragging, gravelling or other means.
6. The construction of bridges, culverts and approaches thereto.
7. The opening of a new road or the relocating, widening or straightening of an existing road.
8. The purchase of gravel pits, stone quarries, materials, equipment and machinery.
9. Such purposes of road improvement as the Minister approves.

Submission  
of by-law  
covering  
estimated  
expenditure

(2) The township shall submit a by-law covering the estimated expenditure on all road construction and maintenance for the calendar year to the Minister for his approval not later than the 31st day of March of the year in which the expenditure is to be made, and no subsidy shall be granted to the township in respect of expenditure that has not been provided for by a by-law approved by the Minister. R.S.O. 1960, c. 171, s. 76 (1, 2).

Supple-  
mentary  
by-law

(3) A township may at any time within the calendar year in which the expenditure is to be made submit to the Minister for his approval a by-law covering an estimated expenditure on road construction and maintenance supplementing the by-law submit-

ted under subsection 2. R.S.O. 1960, c. 171, s. 76 (3); 1962-63, c. 55, s. 12 (1).

(4) Where the construction or maintenance of a road in a township that is a connecting link or extension of the King's Highway is carried out under an agreement made with the Minister under section 19, the expenditure made by the township on such road shall not be included in the statement submitted to the Minister under this section unless the work on which the expenditure is made is additional to that provided for in the agreement and is properly chargeable to road improvement under this Part. 1962-63, c. 55, s. 12 (2).

Connecting link expenditures when to be and not to be included in statement

(5) The Minister may direct that a subsidy under this Part shall be paid to a township in respect only of the expenditure on such road construction or maintenance as he designates and in every such case the by-law mentioned in subsection 2 shall cover only the estimated expenditure on work so designated. R.S.O. 1960, c. 171, s. 76 (4).

Minister to direct subsidy to be paid to township

**72.** Where the whole or a part of an original township lot has been subdivided into lots and is being developed for building purposes, no subsidy shall be paid to the township under this Part for any expenditure made on the opening or constructing of any road in the subdivision unless the road is a main thoroughfare for traffic or is designated and laid out as such and is so designated by the Minister. R.S.O. 1960, c. 171, s. 77.

Opening or constructing road in subdivision not eligible

**73.—**(1) When approved by the Minister, the work or expenditure for a purpose mentioned in section 71 shall be carried out in accordance with the requirements of the Minister and, upon the completion of any such work or expenditure, the township may submit to the Minister an application under section 74 for the subsidy authorized by this Part.

Application for subsidy

(2) Where the township is an island, expenditure for which the township may be entitled to aid under this Part may include the whole, or such proportion as the Minister directs, of the cost of establishing and maintaining a ferry service between the island and the mainland by the township, its lessee or licensee. R.S.O. 1960, c. 171, s. 78 (1, 2).

Cost of ferry service may be included

(3) The Minister may arrange with the Government of Canada for the appointment of a road superintendent to supervise the construction and maintenance, in accordance with the requirements of the Minister, of the roads in any township or part of a township constituting an Indian reserve, and, where such an arrangement has been made, the Government of Canada or, with the approval of the Government of Canada, the Band Council of the reserve may apply under section 74 for the subsidy authorized by this Part, and this Part, except section 70, applies *mutatis mutandis* thereto. 1967, c. 34, s. 5.

Roads in Indian reserves



Annual  
statement  
to Minister

**74.**—(1) A township shall annually, and may with the consent of the Minister at any time during the progress of road construction or maintenance, submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the township road superintendent that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;
- (c) a declaration of the township treasurer that the statement of receipts and expenditures is correct and that it contains no item of expenditure whether for labour or materials that was not paid to the persons performing the work or supplying the materials in cash or by cheque of the township; and
- (d) a petition for the payment of the subsidy authorized by resolution of the council. R.S.O. 1960, c. 171, s. 79 (1).

Contribu-  
tions to be  
deducted

(2) Where a contribution has been made from any source whatsoever towards an expenditure to which this section applies, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. 1964, c. 37, s. 4 (1).

Amount of  
subsidy

(3) Upon the receipt of the statement, declarations and petition, the Minister may direct payment to the township treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final.

Where rate  
of subsidy  
may be  
varied

(4) Notwithstanding subsection 3, the Minister, having regard to the economic condition of the township and the adequacy of its plan of road improvement, may direct payment to the township treasurer out of the moneys appropriated therefor by the Legislature of such amount as he considers requisite,

- (a) in the case of a bridge or culvert, up to 100 per cent; and
- (b) in the case of any other road improvement, up to 80 per cent,

of the amount of the expenditure that is properly chargeable to road improvement. R.S.O. 1960, c. 171, s. 79 (2, 3).

Exclusions

(5) Expenditure in respect of which aid may be granted under this section does not include any amount levied in the township for county road purposes. 1964, c. 37, s. 4 (2).

Advance  
payments

(6) Notwithstanding subsection 1 but subject to subsection 2 of section 71, the Minister may, in his discretion, direct payment to the township treasurer under this section, on or after the 1st day of May in any year, of a sum not exceeding 25 per cent,

- (a) of the amount so paid by the Minister under this section in respect of the preceding calendar year; or
- (b) of the average annual payments made by the Minister under this section in respect of the five preceding calendar years. 1962-63, c. 55, s. 13.

**75.**—(1) A city or town in a provisional judicial district, by by-law passed with the assent of at least two-thirds of the members of its council, may agree with a township to share the cost of construction or maintenance of any township road that leads or is adjacent to the city or town or which, by reason of the existence of the city or town, is subject to extraordinary traffic.

Contribution of city or town in a provisional judicial district to improvement of township roads

(2) Where the cost of construction or maintenance of a township road is shared by a city or town under an agreement made under this section, the Minister may direct that there shall be paid to the township out of the moneys appropriated therefor by the Legislature such proportion of the expenditure made on such road as is fixed under this Part for expenditure on township roads in that township and the balance of the expenditure shall be shared equally by the township and the city or town. R.S.O. 1960, c. 171, s. 80.

How cost to be borne

**76.** The council of a township in which statute labour has been abolished by by-law and,

- (a) in which subdivisions have been laid out; or
- (b) in which parts are used or occupied as summer resorts or are adjacent to a city,

Different rates in summer resort or suburban areas

may by by-law separate the subdivisions or parts for the purposes of taxation from the remainder of the township by defining the limits of the subdivisions or parts and in imposing the township rate for road purposes may impose and levy a higher rate upon the subdivisions or parts than upon the remainder of the township, but no such by-law has effect until it has been approved in writing by the Minister and the amount raised by increasing the rate shall not be included in determining the expenditure of the township on which any subsidy may be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 171, s. 81.

## PART X

### CITY, TOWN AND VILLAGE ROADS

**77.**—(1) Every city, town and village, except a city or separated town in a county other than an area municipality under *The Municipality of Metropolitan Toronto Act* that does not contribute towards the construction and maintenance of suburban roads, may submit a by-law covering the estimated expendi-

Submission of by-law covering estimated expenditure R.S.O. 1970, c. 295

ture on the construction and maintenance of its roads for the calendar year to the Minister for his approval not later than the 31st day of March of the year in which the expenditure is to be made, and no subsidy shall be granted to a city, town or village in respect of expenditure that has not been provided for by a by-law approved by the Minister. R.S.O. 1960, c. 171, s. 82 (1).

Supplemen-  
tary by-law

(2) A city, town or village may at any time within the calendar year in which the expenditure is to be made submit to the Minister for his approval a by-law covering an estimated expenditure on road construction and maintenance supplementing the by-law submitted under subsection 1. R.S.O. 1960, c. 171, s. 82 (2); 1962-63, c. 55, s. 14.

Annual  
statement  
to Minister

**78.**—(1) Where the Minister has approved a by-law to provide for expenditure under this Part, the city, town or village shall annually, and may with the consent of the Minister at any time during the progress of road construction or maintenance, submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the engineer or other officer of the municipality who is charged with the responsibility of directing and supervising the work that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;
- (c) a declaration of the treasurer of the municipality that the statement of receipts and expenditures is correct; and
- (d) a petition for the payment of the subsidy authorized by resolution of the council. R.S.O. 1960, c. 171, s. 83 (1).

Payment  
of subsidy

(2) Upon the receipt of the statement, declarations and petition, the Minister may direct payment to the treasurer of the municipality out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final. R.S.O. 1960, c. 171, s. 83 (2); 1968-69, c. 44, s. 1.

Where rate  
of subsidy  
may be  
varied

(3) Notwithstanding subsection 2, in the case of a town not being a separated town or of a village, the Minister, having regard to the economic condition of the town or village and the adequacy of its plan of road improvement, may direct payment to the treasurer of the town or village out of the moneys appropriated therefor by the Legislature of such amount as he considers requisite,

- (a) in the case of a bridge or culvert, up to 80 per cent; and

- (b) in the case of any other road improvement, up to 50 per cent,

of the amount of the expenditure that is properly chargeable to road improvement.

(4) Where the construction or maintenance of a road in a city, town or village that is a connecting link or extension of the King's Highway is carried out under an agreement made with the Minister under section 19, the expenditure made by the city, town or village on such road shall not be included in the statement submitted to the Minister under this section unless the work on which the expenditure is made is additional to that provided for in the agreement and is properly chargeable to road improvement under this Part. R.S.O. 1960, c. 171, s. 83 (3, 4). In case of expenditure on connecting link of the King's Highway

(5) Notwithstanding subsection 1 but subject to section 77, the Minister may, in his discretion, direct payment to the treasurer of the municipality under this section, on or after the 1st day of May in any year, of a sum not exceeding 25 per cent, Advance payments

- (a) of the amount so paid by the Minister under this section in respect of the preceding calendar year; or
- (b) of the average annual payments made by the Minister under this section in respect of the five preceding calendar years. 1962-63, c. 55, s. 15.

**79.** Expenditures that are properly chargeable to road improvement include those made for any or all of the following purposes: Expenditures eligible for subsidy

1. Opening a new road and acquiring the necessary land therefor.
2. Clearing a road of obstructions.
3. Widening, altering or diverting a road.
4. Subject to *The Public Service Works on Highways Act*, taking up, removing or changing the location of appliances or works placed on or under a road by an operating corporation. R.S.O. 1970, c. 388
5. Constructing and maintaining bridges, culverts or other structures, other than sanitary sewers, incidental to the construction of a road.
6. Grading.
7. Constructing and maintaining an approved base for the road surface including the installing and maintaining of under-drainage therefor.
8. Constructing and maintaining any type of road surface.



9. Constructing and maintaining curbs, gutters and catch basins.
10. Clearing snow and applying chemicals or abrasives to icy surfaces.
11. Such purposes of road improvement as the Minister approves. R.S.O. 1960, c. 171, s. 84; 1962-63, c. 55, s. 16.

Opening or  
constructing  
road in  
subdivision  
not eligible

**80.** Where the whole or a part of an original township lot has been subdivided into lots and is being developed for building purposes, the expenditures made on the opening or constructing of any road therein are not properly chargeable to road improvement under this Part unless the road is a main thoroughfare for traffic or is designed and laid out as such and is so designated by the Minister. R.S.O. 1960, c. 171, s. 85.

Contribu-  
tions to be  
deducted

**81.** Where a contribution has been made from any source whatsoever towards an expenditure to which section 78 applies, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. 1964, c. 37, s. 5.

Contribu-  
tion of  
county  
under s. 57  
may be in-  
cluded in  
statement  
for subsidy

**82.** Notwithstanding section 81, any contribution made by a county under section 57 towards the construction and maintenance of roads, other than county roads or county road extensions or connecting links, in an urban municipality not separated from the county may be included in the statement submitted to the Minister under section 78 for the purpose of determining the grant payable to such urban municipality under this Part, and where such contribution is in the form of work carried out by the county, the value of such work as certified by the county road superintendent may be so included. R.S.O. 1960, c. 171, s. 87.

King's  
Highway  
extension  
or con-  
necting link

**83.** In the case of a city or separated town, the Minister may require that of the expenditure to be made under this Part so much as is necessary shall be made on the construction and maintenance of the roads that he designates as extensions or connecting links of the King's Highway. R.S.O. 1960, c. 171, s. 88.

Aid granted  
to township  
by city,  
town or  
village to be  
subsidized  
R.S.O. 1970,  
c. 284

**84.** Where under paragraph 3 of subsection 1 of section 452 of *The Municipal Act* a city, town or village grants aid to a township towards the construction or maintenance of a township road, the aid so granted is properly chargeable to road improvement and may be included in the statement of expenditures submitted to the Minister by the city, town or village under this Part. R.S.O. 1960, c. 171, s. 89.

## PART XI

## DEVELOPMENT ROADS

**85.**—(1) The Minister may designate as a development road a road or proposed road under the jurisdiction and control of a town or village in a territorial district or of a county or of a township which because of the requirements of traffic he considers should be constructed, improved or maintained to a higher standard than is reasonable having regard to the economic situation of the municipality. R.S.O. 1960, c. 171, s. 90 (1); 1965, c. 45, s. 3.

Designation  
of develop-  
ment roads

(2) The Minister and the municipality may enter into an agreement for the construction or maintenance of a development road designated under subsection 1, and the Minister may direct payment out of the moneys appropriated therefor by the Legislature of such proportion of the cost thereof as he considers requisite.

Construction  
and main-  
tenance  
agreements

(3) A development road designated under subsection 1 remains under the jurisdiction and control of the municipality. R.S.O. 1960, c. 171, s. 90 (2, 3).

Road  
remains  
under  
control of  
municipality

## PART XII

ROADS IN TERRITORY  
WITHOUT MUNICIPAL ORGANIZATION

**86.**—(1) The Minister may arrange with the local roads board elected under *The Local Roads Boards Act* or with the road commissioners elected under *The Statute Labour Act* or with a person who is the owner of land in territory without municipal organization for the construction or maintenance of a road therein, and the Minister may direct payment out of the moneys appropriated therefor by the Legislature of an amount equal to such proportion of the cost of the work as he considers requisite. R.S.O. 1960, c. 171, s. 91 (2); 1968, c. 49, s. 4 (2).

Arrange-  
ments for  
construc-  
tion or  
maintenance  
R.S.O. 1970,  
cc. 256, 445

(2) Where the Minister considers it desirable that the inhabitants of any territory without municipal organization should become incorporated under *The Municipal Act*, the amount that may be paid out under this section in respect of a road in that territory shall not exceed 50 per cent of the value of the labour employed on the work. R.S.O. 1960, c. 171, s. 91 (3).

Where in-  
corporation  
desirable  
R.S.O. 1970,  
c. 284

## PART XIII

## SUBWAY CONSTRUCTION

Interpre-  
tation**87.**—(1) In this section,

- (a) “Metropolitan Corporation” means The Municipality of Metropolitan Toronto;
- (b) “subway” means those parts of the rapid transit system of the Toronto Transit Commission known as,
  - (i) the Bloor-Danforth Subway,
  - (ii) the extension of the Yonge Street Subway from Eglinton Avenue to Sheppard Avenue,
  - (iii) the extension of the Yonge Street Subway from Sheppard Avenue to Finch Avenue, and
  - (iv) the Spadina Expressway rapid transit facilities;
- (c) “subway right-of-way construction” means,
  - (i) clearing the land for the subway of obstructions,
  - (ii) taking up, removing or changing the location of public utilities,
  - (iii) constructing tunnels, bridges, culverts or other structures incidental to the subway right-of-way construction, except sanitary sewers,
  - (iv) constructing a base for the subway, including the installing of under-drainage therefor, other than sanitary sewers, and
  - (v) such other work relating to the construction of the subway as the Minister may approve. 1962-63, c. 55, s. 17, *part*; 1967, c. 34, s. 6; 1968-69, c. 44, s. 2 (1).

Submission  
of by-law  
covering  
expenditure

(2) On or before the 31st day of March in any year, and, with the consent of the Minister, at any time during a year, the Metropolitan Corporation may submit to the Minister for his approval a by-law setting out the estimated expenditure for the calendar year on subway right-of-way construction carried out on or after the 1st day of April, 1964.

Approval  
required

(3) No grant shall be made for an expenditure unless the expenditure has been set out in a by-law approved by the Minister under subsection 2.

Annual  
statement  
to Minister

(4) Where the Minister has approved a by-law under subsection 2, the Metropolitan Corporation shall annually, and, with the consent of the Minister, may at any time during the progress of the subway right-of-way construction, submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;

- (b) a declaration of the treasurer of the Metropolitan Corporation that the statement is correct;
- (c) a declaration of the officer of the Metropolitan Corporation or other officer responsible for the subway right-of-way construction that the statement contains only receipts and expenditures for such construction; and
- (d) a petition, authorized by resolution of the council of the Metropolitan Corporation, for the payment of the grant. 1962-63, c. 55, s. 17, *part*.

(5) Upon receipt of the statement, declarations and petition and the approval thereof by the proper officer of the Department, the Minister may direct payment to the treasurer of the Metropolitan Corporation out of the moneys appropriated therefor by the Legislature of an amount not exceeding 50 per cent of the expenditure, and in all cases of doubt or dispute the decision of the Minister is final. 1962-63, c. 55, s. 17, *part*; 1968-69, c. 44, s. 2 (2). Power to make grant

## PART XIV

### GENERAL

**88.** Subject to the approval of the Minister and the Board, a municipality may by by-law designate any road under the jurisdiction of the council of the municipality as a controlled-access road. 1967, c. 34, s. 7. Controlled-access road, designation

**89.—(1)** In this section, “road” includes an unopened road allowance. Interpretation

(2) Subject to the approval of the Board, a municipality may by by-law close a municipal road that intersects or runs into a controlled-access road designated under section 88. Closing of intersecting municipal roads

(3) The Board may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons as the Board determines, and may further direct that particulars of claims in respect of land injuriously affected by the closing and particulars of objections to the closing shall be filed with the Board and the municipality within such time as the Board directs. Application for approval

(4) Upon the hearing of the application, the Board may make an order refusing its approval or granting its approval upon such terms and conditions as it considers proper. Powers of Board

(5) The municipality or any person, including a municipality or a local board thereof, that has filed particulars of a claim or objection may, with leave of the Court of Appeal, appeal to that Appeal



court from any order made under subsection 4, and subsections 4 and 5 of section 12 apply *mutatis mutandis* thereto. R.S.O. 1960, c. 171, s. 93 (1-5).

Private  
roads, etc.,  
opening  
upon con-  
trolled-  
access road

**90.**—(1) A municipality may pass by-laws prohibiting or regulating the construction or use of any private road, entranceway, gate or other structure or facility as a means of access to a controlled-access road designated under section 88 and may impose penalties for contravention of any such by-law.

Notice

(2) The municipality may give notice to the owner of any land requiring him to close up any private road, entranceway, gate or other structure or facility constructed or used as a means of access to a controlled-access road designated under section 88 in contravention of a by-law passed under subsection 1.

Service  
of notice

(3) Every notice given under subsection 2 shall be in writing and shall be served personally or by registered letter and in the case of service by registered letter shall be deemed to have been received on the second day following the mailing thereof.

Failure to  
comply with  
notice

(4) Where the person to whom notice is given under subsection 2 fails to comply with the notice within thirty days after its receipt, the municipality may by resolution direct any officer, employee or agent of the municipality to enter upon the land of such person and do or cause to be done whatever is necessary to close up the private road, entranceway, gate or other structure or facility as required by the notice.

Offence

(5) Every person who fails to comply with a notice given under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for any subsequent offence.

Compensation

(6) Where a notice given under subsection 2 has been complied with, the municipality shall make due compensation to the owner of the land if the private road, entranceway, gate or other structure or facility constructed or used as a means of access to a controlled-access road designated under section 88 was constructed or used, as the case may be,

- (a) before the day on which the by-law designating the road as a controlled-access road became effective; or
- (b) in compliance with a by-law passed under subsection 1, in which case the making of compensation is subject to any provisions of such by-law.

Procedure

(7) Every claim for such compensation shall be determined in accordance with subsections 2 to 5 of section 12 which subsections apply *mutatis mutandis*. R.S.O. 1960, c. 171, s. 94.

**91.—**(1) In this section,

Interpre-  
tation

- (a) “expressway” means a divided arterial highway that is accessible only from intersecting arterial streets at intersections at grade that have been approved by the Minister, and, where required by the volume of traffic, at grade separated interchanges that have been approved by the Minister;
- (b) “freeway” means a divided arterial highway that is accessible only from intersecting arterial streets at grade separated interchanges that have been approved by the Minister. 1964, c. 37, s. 6, *part*.

(2) The Minister and any municipality may enter into agreement for the acquisition of land required for and for the construction, maintenance and operation of an expressway or freeway that has been or is proposed to be designated as a controlled-access road or as a controlled-access highway under this Act, and any land acquired by a municipality under such an agreement shall be deemed to be land required for the purposes of the municipality. 1965, c. 45, s. 4.

Express-  
ways and  
freeways

**92.** The road superintendent appointed by a road authority under this Act may, without any direction from the Minister or road authority by which he is appointed, initiate and carry out proceedings under *The Drainage Act* for the purpose of procuring proper drainage for any road within the jurisdiction and control of the road authority, and he has authority to file or receive notices as owner in accordance with the procedure prescribed by such Act. R.S.O. 1960, c. 171, s. 95, *amended*.

Authority  
of road  
superin-  
tendent  
with regard  
to drainage  
R.S.O. 1970,  
c. 136

**93.—**(1) Notwithstanding *The Municipal Act*, a road superintendent may, without the passing of a by-law or resolution, apply to the owner of any gravel pit or gravel land for gravel for road purposes.

Obtaining  
gravel for  
road  
purposes  
R.S.O. 1970,  
c. 284

(2) The road superintendent shall state in the application the price per cubic yard or per acre of such amount of gravel as he requires. R.S.O. 1960, c. 171, s. 96 (1, 2).

Application  
to state  
price offered

**94.—**(1) While a work authorized by this Act is in progress on a road, other than the King’s Highway, the road superintendent or a person authorized by him may close to traffic the road for such time as the road superintendent or such person, as the case may be, considers necessary.

Closing  
road to  
traffic

(2) While a road is so closed to traffic, the municipality having jurisdiction and control of the road shall provide and keep in repair an alternative route for traffic and for property owners who cannot obtain access to their property by reason of such closing, and for the period during which the road is closed to traffic the

Alternative  
route to be  
provided

alternative route is under the jurisdiction and control of that municipality. R.S.O. 1960, c. 171, s. 97 (1, 2).

Barricades

(3) While a road is so closed to traffic, the road superintendent or a person authorized by him shall protect it by erecting or causing to be erected at each end of it, and, wherever an alternative route deviates from it, a barricade upon which a red or a flashing amber light visible for a distance of 500 feet shall be exposed and kept burning or operating continuously from sunset until sunrise, and at such points shall put up a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic. 1964, c. 37, s. 7.

No municipal liability

(4) Every person using a road closed to traffic in accordance with this section does so at his own risk and the municipality having jurisdiction and control of the road is not liable for any damage sustained by a person using a road so closed to traffic.

Offence

(5) Every person who without lawful authority uses a road so closed to traffic while it is protected in accordance with subsection 3, or who removes or defaces any barricade, light, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 and is also liable to the municipality having jurisdiction and control for any damage or injury occasioned by such wrongful use, removal or defacement.

Application of section to special cases

(6) This section applies to any road for which provision has been made under any Act for the construction, maintenance and control thereof by a commission appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 171, s. 97 (4-6).

Repair and maintenance of road by Department on default of municipality

**95.** Where an engineer of the Department reports to the Minister that a municipal road is out of repair, the Minister may, after at least two months notice in writing to the municipality, direct the Department to undertake the work of putting the road in repair, and the cost of the work is chargeable to and is a debt due from the municipality to the Crown, and the Minister may direct that the cost shall be deducted from any sums of money payable to the municipality under this Act. R.S.O. 1960, c. 171, s. 98.

Excavated material

**96.** Notwithstanding any other Act, no earth, debris or excavated material shall be deposited within the limits of a road without permission in writing so to do from the road authority responsible for the maintenance of the road. R.S.O. 1960, c. 171, s. 99.

Local municipalities may construct sidewalks, etc.

**97.—(1)** A local municipality may construct a sidewalk or other improvement or service on a highway or road with the written consent of the authority having jurisdiction and control of the highway or road.

(2) The cost of such a sidewalk, improvement or service may be met out of the general funds of the local municipality or out of funds of the authority having jurisdiction and control of the highway or road, or the work may be undertaken as a local improvement under *The Local Improvement Act*. How cost provided  
R.S.O. 1970, c. 255

(3) A local municipality when constructing such a sidewalk, improvement or service shall conform to any requirements or conditions imposed by the authority having jurisdiction and control of the highway or road, and is responsible for any injury or damage occasioned by the construction or presence of the sidewalk, improvement or service. Local municipality to conform to requirements and be responsible for damage

(4) A township may apply to the Minister for authority to construct a sidewalk or footpath on the King's Highway or a county road and the Minister may grant the authority, and upon completion of the work may approve thereof at his discretion, and, upon the approval being given, the township may apply to the Minister in the form prescribed by him for the payment to it out of the moneys appropriated therefor by the Legislature of an amount not exceeding 50 per cent of the cost of the work, and the Minister may authorize the payment. R.S.O. 1960, c. 171, s. 100. Construction of sidewalk or footpath

**98.** A municipality or suburban roads commission may plant trees on its roads, and the cost of the work shall be deemed to be part of the cost of maintaining the road. R.S.O. 1960, c. 171, s. 101. Planting trees

**99.—**(1) A road superintendent, with the approval of the road authority, may enter into an agreement with the owner of any land adjacent to a road under the jurisdiction and control of the road authority for the removal of any tree, shrub, bush, hedge, fence, sign board, gasoline pump, building or other object growing or standing on the road or on land adjoining the road and that may cause the drifting or accumulation of snow or may injuriously affect the road or obstruct the vision of pedestrians or drivers of vehicles on the road, and the agreement may provide for the amount of compensation to be paid to the owner for damages caused to him by reason of the removal. Agreement with owner for removal

(2) Where the road superintendent is of the opinion that a tree, shrub, bush, hedge, fence, sign board, gasoline pump, building or other object growing or standing on the road or on land adjacent to the road will cause the drifting or accumulation of snow or will injuriously affect the road or will obstruct the vision of pedestrians or drivers of vehicles on the road and he is unable to agree with the owner of the land for the removal of the same or as to the amount of compensation to be paid therefor, he may, with the approval of the road authority, apply to the judge of the county court of the county in which the land affected is situated for an Application to judge for order to remove



order authorizing him to enter upon the land affected and remove any object with respect to which the application is made, and the judge, upon such notice to the owner of the land as he considers proper, may make such order and may fix the amount of compensation to be paid to the owner and give such directions as to costs as in his opinion are equitable.

Application  
of R.S.O.  
1970, c. 227

(3) *The Judges' Orders Enforcement Act* applies to every application and order made under subsection 2.

By-laws for  
clearing  
adjacent  
land

(4) A county or township may by by-law determine and fix the distance from the centre line of a road under its jurisdiction and control within which the owner of any lands adjacent to the road shall not plant or cause to be planted any tree, shrub, bush or hedge, or erect or cause to be erected any fence, sign board, gasoline pump, building or other structure that may cause the drifting or accumulation of snow or that may injuriously affect the road or obstruct the vision of pedestrians or drivers of vehicles on the road. R.S.O. 1960, c. 171, s. 102.

Agreements  
for widening

**100.**—(1) A municipality, other than a city or separated town, with the approval of the Minister, may make an agreement with the road authority having jurisdiction and control of the King's Highway, a county road or a suburban road for the widening of the highway or road in the municipality, and may make a further agreement with the road authority and any municipality or commission interested in the highway or road and with any municipality, commission or company owning or operating a street railway or electric railway on the highway or road fixing the proportions in which the cost of the widening and of the removal or replacing or altering of the tracks of the street railway or electric railway consequent upon the widening shall be borne by the municipality, the road authority, any municipality or commission interested in the highway or road and by the municipality, commission or company owning or operating the street railway or electric railway.

Apportion-  
ing cost

(2) Where the parties to the proposed agreement are unable to agree as to the proportion in which each of them shall so contribute, the proportion shall be determined by the Board and the decision of the Board is final and conclusive and is not subject to any appeal.

By-law for  
acquiring  
land

(3) Subject to the terms of the agreement entered into with the road authority for the widening of the highway or road, the municipality may pass by-laws for acquiring by purchase or otherwise or for expropriating any land described in the agreement or necessary to carry out the provisions thereof, and *The Municipal Act* as to the acquiring, occupying or taking of land for municipal purposes applies to the acquiring, occupying or taking of land under the by-law.

R.S.O. 1970,  
c. 284

(4) A county not having jurisdiction and control of the highway or road but through which the highway or road passes may agree to contribute to the cost of the widening of the highway or road, but nothing in this section renders it compulsory for the county to so contribute. R.S.O. 1960, c. 171, s. 103.

Voluntary contributions from municipalities

**101.** A commission appointed under an Act of the Legislature for the purpose of exercising or carrying out in any particular locality powers elsewhere exercisable by a municipality with respect to the construction of roads has the like rights and powers and shall perform the like duties and is entitled to the same aid as a township under this Act. R.S.O. 1960, c. 171, s. 104.

Aid to commissions governing certain localities

**102.** Where a subsidy is applied for under this Act, vouchers covering all expenditures in respect of which the subsidy is applied for shall be furnished to the Minister in a form satisfactory to him and the Minister may require the production of any book, statement, or other document respecting the subsidy. R.S.O. 1960, c. 171, s. 105.

Vouchers

**103.** Any by-law that is submitted to the Minister for approval under this Act may be approved in whole, in part or subject to conditions and, where the by-law is approved in part or subject to conditions, the by-law has force and effect only as so approved. R.S.O. 1960, c. 171, s. 106.

Approval of by-laws by Minister

**104.**—(1) If resistance or opposition is made to the Minister or any person authorized by him entering upon land under this Act or exercising any other power in respect of land under this Act, except where such power is or would result in expropriation or injurious affection to which *The Expropriations Act* applies, the Minister may apply to a judge of the Supreme Court or to the judge of the county or district court of the county or district in which the land is situate for a warrant in Form 1 directing the sheriff of the county or district to put down such resistance or opposition or to take such steps as may be necessary to enable the Minister to exercise such power. R.S.O. 1960, c. 171, s. 107 (1), *amended*.

Warrant

R.S.O. 1970, c. 154

(2) The judge shall in writing appoint a time and place for the hearing of the application and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes. R.S.O. 1960, c. 171, s. 107 (2).

Hearing

(3) On proof of such resistance or opposition and of the intention of the Minister to exercise a power in respect thereof, the judge may issue the warrant. R.S.O. 1960, c. 171, s. 107 (3), *amended*.

Issue of warrant

(4) The sheriff shall forthwith execute the warrant and make a return to the judge of the execution thereof. R.S.O. 1960, c. 171, s. 107 (4).

Execution of warrant

How cost  
to be  
provided

**105.** The cost of material, labour, special engineering or other services, land and property or options thereon, plant, machinery and equipment and the repair and maintenance of plant, machinery or equipment and all expenditure in or about any work undertaken by the Minister under this Act or incidental thereto, or contracts therefor, shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 171, s. 108.

Highway  
Construction  
Account

**106.**—(1) The Highway Reserve Account in the Consolidated Revenue Fund is continued under the name of the Highway Construction Account and such amounts as are appropriated by the Legislature for that account shall be credited to that account.

Idem

(2) The Minister may pay out of the Highway Construction Account expenditures incurred in the construction of highways. R.S.O. 1960, c. 171, s. 109.

Disposition  
of fines

**107.** Notwithstanding anything in any other Act, all fines and other penalties recovered for offences under this Act committed on or with respect to a highway under the jurisdiction and control of the Department shall be paid to the Department. R.S.O. 1960, c. 171, s. 110.

FORM 1

WARRANT

(Sec. 104)

PROVINCE OF ONTARIO  
COUNTY (or DISTRICT) OF

} IN THE MATTER OF  
The Highway Improvement Act  
AND IN THE MATTER OF  
.....

To

SHERIFF, ETC.:

WHEREAS resistance or opposition has been made to the Minister of Highways or a person authorized by him entering upon the land described as follows:

AND WHEREAS the proof required by section 104 of *The Highway Improvement Act* has been made before me;

THIS IS THEREFORE to command you in Her Majesty's name forthwith to put down such resistance or opposition and take such steps as may be necessary to enable the Minister of Highways to ....., and to make a return to me of your execution hereof.

GIVEN under my hand this ..... day of ....., 19.....

JUDGE

## CHAPTER 202

## The Highway Traffic Act

## 1.—(1) In this Act,

Interpre-  
tation

1. “built-up area” means the territory contiguous to a highway not within a city, town, village or police village where,
  - i. not less than 50 per cent of the frontage upon one side of the highway for a distance of not less than 600 feet is occupied by dwellings, buildings used for business purposes, schools or churches, or
  - ii. not less than 50 per cent of the frontage upon both sides of the highway for a distance of not less than 300 feet is occupied by dwellings, buildings used for business purposes, schools or churches, or
  - iii. not more than 600 feet of the highway separates any territory described in subparagraph i or ii from any other territory described in subparagraph i or ii,and signs are displayed as required by the regulations;
2. “chauffeur” means a person who operates a motor vehicle and receives compensation therefor;
3. “commercial motor vehicle” means a motor vehicle having permanently attached thereto a truck or delivery body and includes ambulances, hearses, casket wagons, fire apparatus, police patrols, motor buses and tractors used for hauling purposes on the highways; R.S.O. 1960, c. 172, s. 1 (1), *pars.*, 1-3.
4. “conversion unit” means a mechanical device consisting of a single axle designed to convert a two-axle vehicle into a three-axle vehicle; 1962-63, c. 56, s. 1 (1).
5. “crosswalk” means,
  - i. that part of a highway at an intersection that is included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the roadway, or
  - ii. any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by signs or by lines or other markings on the surface;



6. "Department" means the Department of Transport; R.S.O. 1960, c. 172, s. 1 (1), pars. 4, 5.
7. "Deputy Minister" means the Deputy Minister of Transport; 1961-62, c. 52, s. 1 (1).
8. "farm tractor" means a self-propelled vehicle designed and used primarily as a farm implement for drawing ploughs, mowing-machines and other implements of husbandry and not designed or used for carrying a load;
9. "garage" means every place or premises where motor vehicles are received for housing, storage or repairs for compensation;
10. "gross weight" means the combined weight of vehicle and load;
11. "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles;
12. "intersection" means the area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two or more highways that join one another at an angle, whether or not one highway crosses the other;
13. "King's Highway" includes the secondary highways and tertiary roads designated under *The Highway Improvement Act*; R.S.O. 1960, c. 172, s. 1 (1), pars. 6-12; 1962-63, c. 56, s. 1 (2).
14. "median strip" means the portion of a highway so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction by a strip of pavement of more than ten feet in width, a physical barrier or an unpaved strip of ground. 1968-69, c. 45, s. 1 (1).
15. "Minister" means the Minister of Transport;
16. "motorcycle" means a self-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, and includes a bicycle with a motor attached and a motor scooter; R.S.O. 1960, c. 172, s. 1 (1), pars. 13, 14.
17. "motor vehicle" includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle,

traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of this Act; R.S.O. 1960, c. 172, s. 1 (1), par. 15; 1968, c. 50, s. 1 (1).

18. "official sign" means a sign approved by the Department;
19. "operator" means a person other than a chauffeur who operates a motor vehicle on a highway; R.S.O. 1960, c. 172, s. 1 (1), pars. 16, 17.
20. "park" or "parking", when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers; 1965, c. 46, s. 1 (1).
21. "peace officer" includes a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer, justice of the peace, jailer or keeper of a prison, and a police officer, constable, bailiff, or other person employed for the preservation and maintenance of the public peace, or for the service or execution of civil process, or any officer appointed for enforcing or carrying out the provisions of this Act; R.S.O. 1960, c. 170, s. 1 (1); par. 18.
22. "pedestrian crossover" means any portion of a roadway, designated by by-law of a municipality, at an intersection or elsewhere, distinctly indicated for pedestrian crossing by signs on the highway and lines or other markings on the surface of the roadway as prescribed by the regulations; 1965, c. 46, s. 1 (2).
23. "public vehicle" has the same meaning as in *The Public Vehicles Act*; R.S.O. 1970,  
c. 392
24. "Registrar" means the Registrar of Motor Vehicles appointed under this Act;
25. "regulations" means the regulations made under this Act;
26. "road-building machine" means a self-propelled vehicle designed and used primarily in connection with the building or maintaining of highways and not designed or used for carrying a load;
27. "roadway" means the part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not to all of the roadways collectively; R.S.O. 1960, c. 172, s. 1 (1), pars. 19-23.

28. "safety glass" means any product that is composed of glass and so manufactured, fabricated or treated as substantially to prevent the shattering and flying of the glass when struck or broken and that is approved by the Department, or such other or similar product that is approved by the Department; 1961-62, c. 52, s. 1 (2).
29. "self-propelled implement of husbandry" means a self-propelled vehicle manufactured, designed, redesigned, converted or reconstructed for a specific use in farming; 1968-69, c. 25, s. 1 (2).
30. "solid tires" means all tires other than pneumatic tires; R.S.O. 1960, c. 172, s. 1 (1), par. 25.
31. "stand" or "standing", when prohibited, means the halting of a vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers;
32. "stop" or "stopping", when prohibited, means the halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a constable or other police officer or of a traffic control sign or signal; 1965, c. 46, s. 1 (3).
33. "through highway" means a highway or part of a highway designated as such by the Minister or by by-law of a municipality approved by the Department, and every such highway shall be marked by a stop sign or yield right-of-way sign in compliance with the regulations of the Department;
34. "trailer" means a vehicle that is at any time drawn upon a highway by a motor vehicle, except an implement of husbandry, another motor vehicle or any device or apparatus not designed to transport persons or property, temporarily drawn, propelled or moved upon such highway, and except a side car attached to a motorcycle, and shall be considered a separate vehicle and not part of the motor vehicle by which it is drawn; R.S.O. 1960, c. 172, s. 1 (1), pars. 26, 27.
35. "vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or the cars of electric or steam railways running only upon rails. R.S.O. 1960, c. 172, s. 1 (1), par. 29; 1968, c. 50, s. 1 (2).

(2) Where in this Act the Minister or a provincial judge or other official is authorized or directed to suspend or cancel the licence or permit of any person, and such person is the holder of both a licence and a permit issued under this Act, every such authority extends to both licence and permit and every such direction may in the discretion of the Minister, provincial judge or other officer be made to apply to both licence and permit. R.S.O. 1960, c. 172, s. 1 (2).

Suspension  
or cancella-  
tion of  
licence or  
permit

(3) For the purposes of Part VIII and any regulations or municipal by-laws made thereunder, every overpass and underpass shall be deemed to form part of the highway that it connects. 1968-69, c. 45, s. 1 (3).

Overpass  
and under-  
pass

(4) Any reference in this Act to the *Criminal Code* (Canada) or any provision thereof shall be deemed to be a reference to the *Criminal Code* (Canada) or the provision thereof as amended or re-enacted from time to time. 1968-69, c. 45, s. 1 (4).

References  
to Criminal  
Code  
1953-54,  
c. 51 (Can.)

## PART I

### ADMINISTRATION

**2.** Where by this Act powers are conferred or duties are imposed upon the Department, such powers may be exercised and such duties discharged by the Minister. R.S.O. 1960, c. 172, s. 2.

Powers and  
duties of  
Department

**3.**—(1) There shall be a Registrar of Motor Vehicles appointed by the Lieutenant Governor in Council.

Registrar  
of Motor  
Vehicles

(2) The Registrar shall act under the instructions of the Minister and Deputy Minister and has general supervision over all matters relating to highway traffic within Ontario, and shall perform such duties as are assigned to him by this Act, by the Lieutenant Governor in Council, or by the Minister or Deputy Minister. R.S.O. 1960, c. 172, s. 3 (1, 2).

Duties

(3) The Minister may authorize the Deputy Minister and the Registrar or either of them to exercise and discharge in his place any of the powers conferred or the duties imposed upon him under this Act and, where both the Deputy Minister and the Registrar are so authorized, either of them may exercise and discharge any of such powers and duties. 1961-62, c. 52, s. 2.

Delegation  
of powers,  
etc.,  
to Deputy  
Minister  
and  
Registrar

(4) The Deputy Minister, with the consent of the Minister, may authorize any public servant or servants in the Department to exercise any or all of the powers and duties of the Registrar when the Registrar or Deputy Registrar is absent. 1966, c. 64, s. 2.

Delegation  
of powers  
of Registrar



Deputy  
Registrar

**4.** There shall be a Deputy Registrar appointed by the Lieutenant Governor in Council who shall have all the powers and may perform all the duties of the Registrar. R.S.O. 1960, c. 172, s. 4.

Regulations  
re fees

**5.** The Lieutenant Governor in Council may make regulations,

- (a) providing for the payment of fees for the issue, renewal, replacement or transfer of permits, licences and number plates under this Act and prescribing the amount of such fees;
- (b) providing for the payment of fees for copies of or access to any writing, paper or document filed in the Department pursuant to this Act or any statement containing information from the records of the Department and prescribing the amount of such fees;
- (c) providing for the payment of fees upon application to the Department for any approval required under this Act in respect of any equipment to be used on a vehicle and prescribing the amount of such fees. R.S.O. 1960, c. 172, s. 5; 1968, c. 50, s. 2.

## PART II

### REGISTRATION AND PERMITS

Registration  
of motor  
vehicles

**6.—(1)** The owner of every motor vehicle, trailer or conversion unit shall register it with the Department before driving or operating it or causing it to be driven or operated upon a highway and shall pay to the Department a fee for the registration of such motor vehicle, trailer or conversion unit and for the number plates therefor. 1968-69, c. 45, s. 2 (1).

Self-  
propelled  
implement  
of  
husbandry

(2) Subsection 1 applies to a self-propelled implement of husbandry that is operated on a highway other than when travelling from farm to farm in relation to the specific use for which it was manufactured, designed, redesigned, converted or reconstructed or in travelling to or from such places as may be necessary for the maintenance or repair of the vehicle. 1968-69, c. 45, s. 2 (2).

Permits for  
vehicles

(3) The Department shall issue for each motor vehicle, trailer or conversion unit so registered a numbered permit stating that the motor vehicle, trailer or conversion unit is registered in accordance with this Act, and shall cause the name of the owner, his address and the number of his permit to be entered in a book to be kept for that purpose.

(4) The Minister may, in his discretion, refuse to accept the registration of, or cancel any permit issued for, any motor vehicle, trailer or conversion unit that is to be used or is used,

(a) as a public vehicle within the meaning of *The Public Vehicles Act*; or

(b) as a public commercial vehicle within the meaning of *The Public Commercial Vehicles Act*,

Minister may refuse to accept registration or may cancel permit

R.S.O. 1970, c. 392

R.S.O. 1970, c. 375

unless the owner of such motor vehicle, trailer or conversion unit is in possession of an operating licence as required by such Acts.

(5) The Minister may give authority to any person to issue permits for motor vehicles, trailers or conversion units and may define the duties and powers of such person, and, where the salary is not otherwise provided, may authorize and fix the fee to be retained by the person so authorized for each permit issued. 1962-63, c. 56, s. 2, *part*.

Local issuance of motor vehicle permits

(6) Declarations or affidavits in connection with the issuance of permits and licences under this Act or required by the Department in that regard may be taken before any person having authority to administer oaths or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor.

Administration of declarations and affidavits

(7) The Lieutenant Governor in Council may make regulations regarding the renewal and transfer of such permits, the payment of fees therefor, the amount and time of payment of such fees, and also the registration and operation of motor vehicles or trailers owned by manufacturers or dealers and not kept by them for private use. R.S.O. 1960, c. 172, s. 6 (5, 6).

Regulations re registration

**7.**—(1) Every person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this Act or by the regulations or by the Department is guilty of an offence and on summary conviction, in addition to any other penalty or punishment to which he may be liable, is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both, and in addition his licence or permit may be suspended for a period of not more than six months. 1968-69, c. 45, s. 3 (1).

Penalty for false statement

(2) Where an owner changes his address as given under subsection 3 of section 6 or under this subsection, he shall within six days send by registered mail or cause to be filed in the Department his change of address. 1968-69, c. 45, s. 3 (2).

Notice of change of address

(3) No permit shall be issued for a motor vehicle or a trailer that has a gross weight exceeding 6,000 pounds where the manufacturer's serial number or similar identifying mark has been obliterated or defaced until the owner has filed with the

Where serial number obliterated

Department satisfactory proof of the ownership of the vehicle or trailer, and, if known, the reason for the obliteration or defacement, and, if satisfied as to the statements made, the Minister may grant permission to cut, impress, emboss or attach permanently to the vehicle or trailer a special identification number or mark, which thereafter shall be deemed sufficient for the purpose of registration of the vehicle or trailer. 1962-63, c. 56, s. 3.

Number  
plate

**8.**—(1) Every motor vehicle other than a motorcycle, while being driven on a highway, shall have attached to and exposed on the front and back thereof, in a conspicuous position, a number plate furnished by the Department showing in plain figures the number of the permit issued for the current year or any part thereof. R.S.O. 1960, c. 172, s. 8 (1); 1962-63, c. 56, s. 4 (1).

Position of  
number  
plate

(2) The number plate on the front shall be as far forward and as high from the ground as may be necessary to render it distinctly visible, and the number plate on the back shall be so placed that the lower edge thereof shall not be lower than the body of the motor vehicle; provided that this subsection, so far as it relates to the position of the number plate on the back shall not apply to commercial motor vehicles. R.S.O. 1960, c. 172, s. 8 (3), *amended*.

Number  
plate on  
motorcycle

(3) A motorcycle while being driven on a highway shall have attached to and exposed on the back thereof a number plate furnished by the Department showing in plain figures the number of the permit of such motorcycle issued for the current year or any part thereof and so fixed that the number is plainly visible from the rear of the motorcycle. 1967, c. 35, s. 1.

Rear  
number  
plate on  
trailer, etc.

(4) Every trailer and conversion unit while being drawn on a highway shall have exposed on the back thereof, in a conspicuous position, a number plate furnished by the Department showing in plain figures the number of the permit issued for the current year or any part thereof. 1962-63, c. 56, s. 4 (2).

Violations  
as to  
number  
plates

**9.**—(1) Every person who,

- (a) defaces or alters any number plate furnished by the Department;
- (b) uses or permits the use of a defaced or altered number plate or a number plate issued by the Department for another motor vehicle, trailer or conversion unit;
- (c) without the authority of the owner, removes a number plate from a motor vehicle, trailer or conversion unit; or
- (d) uses or permits the use of any number plate upon a motor vehicle, trailer or conversion unit, except the one issued by the Department for the motor vehicle, trailer or conversion unit,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500 or to imprisonment for not more than thirty days, or to both, and in addition his licence or permit may be suspended for not more than six months.

(2) Every person shall, within six days, forward to the Department a notice on the prescribed form of the sale or purchase by or to him of a motor vehicle, trailer or conversion unit for which a permit has been issued.

Notice of purchase of motor vehicle, etc.

(3) Every number plate furnished by the Department under this Act is the property of the Crown and shall be returned to the Department when required by the Department. 1968-69, c. 45, s. 5.

Number plates property of Crown

**10.**—(1) No number other than that upon the number plate furnished by the Department shall be exposed on any part of a motor vehicle, trailer or conversion unit in such a position or manner as to confuse the identity of the number plate. R.S.O. 1960, c. 172, s. 10 (1); 1962-63, c. 56, s. 5.

No other numbers to be exposed

(2) The number plates shall be kept free from dirt and obstruction and shall be so affixed that the numbers thereon may be plainly visible at all times, and the view thereof shall not be obscured or obstructed by spare tires, bumper bars, or by any part of the vehicle or any attachments thereto, or by the load carried. 1965, c. 46, s. 3.

Numbers to be kept clean

(3) Every person who contravenes any of the provisions of subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$10. 1968-69, c. 45, s. 6 (2).

Penalty

**11.** A peace officer who has reason to believe that a motor vehicle, trailer or conversion unit is carrying number plates that were not issued for it, or which although issued for it were obtained by false pretenses, may take possession of such number plates and retain them until the facts as to the carrying of such number plates have been determined. R.S.O. 1960, c. 172, s. 11; 1962-63, c. 56, s. 6.

Improper number plates

**12.**—(1) Sections 6 and 8 and subsection 1 of section 10 do not apply to a motor vehicle owned by a person who does not reside or carry on business in Ontario for more than six consecutive months in each year, if the owner thereof is a resident of some other province of Canada, and has complied with the provisions of the law of the province in which he resides as to registration of a motor vehicle and the display of the registration number thereon, and provided the province of residence grants similar exemptions and privileges with respect to motor vehicles registered under the laws of and owned by residents of Ontario.

Exceptions as to residents of other provinces



Exceptions  
as to  
residents  
of foreign  
countries

(2) Sections 6 and 8 and subsection 1 of section 10 do not apply to a motor vehicle owned by a person who does not reside or carry on business in Ontario for more than three months in any one year if the owner thereof is a resident of a country or state that grants similar exemptions and privileges with respect to motor vehicles registered under the laws of and owned by residents of Ontario and has complied with the provisions of the law of the country or state in which he resides as to registration of a motor vehicle and the display of registration plates thereon, but this subsection does not apply to commercial motor vehicles.

Regulation

(3) The Lieutenant Governor in Council may make regulations providing for the temporary exemption from registration of commercial vehicles or vehicles used by non-residents doing business in Ontario. R.S.O. 1960, c. 172, s. 12.

### PART III

#### LICENCES

##### OPERATOR, CHAUFFEUR, DRIVING INSTRUCTOR

Operator's  
licence

**13.**—(1) No person other than one holding a chauffeur's licence shall operate or drive a motor vehicle on a highway unless he holds an operator's licence issued to him under this section, and no person who is the owner or in possession or control of a motor vehicle shall permit any person who is not the holder of a chauffeur's or operator's licence to operate or drive the motor vehicle. R.S.O. 1960, c. 172, s. 13 (1).

Terms of  
licence

(2) Operators' licences may be issued by the Minister to such persons for such times and upon such terms and conditions and subject to such regulations and restrictions as the Lieutenant Governor in Council may prescribe. R.S.O. 1960, c. 172, s. 13 (3).

Re-exam-  
ination

(3) The holder of an operator's licence shall submit to such examination in respect of the operation of a motor vehicle as and when required by the Minister and,

- (a) the licence of any such person who fails to take or complete such examination when required shall be cancelled by the Minister; and
- (b) the licence of any such person who completes such examination may be confirmed, suspended, cancelled or reissued in accordance with subsection 2 by the Minister. 1968, c. 50, s. 4.

As to  
carrying  
licences and  
production  
on demand

**14.**—(1) Every operator of a motor vehicle shall carry his licence with him at all times while he is in charge of a motor vehicle and shall produce it when demanded by a constable or by an officer appointed for carrying out the provisions of this Act. R.S.O. 1960, c. 172, s. 14 (1).

(2) Every person who is unable or refuses to produce his licence in accordance with subsection 1 shall, when requested by a constable, give reasonable identification of himself and, for the purposes of this subsection, the correct name and address of such person shall be deemed to be reasonable identification. 1968-69, c. 45, s. 8.

Identifica-  
tion on  
failure to  
produce  
licence

**15.**—(1) Sections 13 and 16 and any regulation made thereunder do not apply to any person who is,

Exemption  
as to non-  
residents

- (a) a resident of any other province of Canada, who is at least sixteen years of age and has complied with the law of the province in which he resides as to the licensing of motor vehicle operators or chauffeurs;
- (b) a resident of any other country or state,
  - (i) who is at least sixteen years of age and is the holder of a valid International Driver's Permit, or
  - (ii) who is at least sixteen years of age and has not resided in Ontario for more than three months in any one year and has complied with the law of the country or state in which he resides as to the licensing of motor vehicle operators or chauffeurs. 1966, c. 64, s. 4; 1968, c. 50, s. 5.

(2) Sections 13 and 16 and any regulation made thereunder do not apply to a person for thirty days after he has become a resident of Ontario if during such period he holds a subsisting driver's licence in accordance with the laws of the province, country or state of which he was a resident immediately before becoming a resident of Ontario. 1968-69, c. 45, s. 9.

Exemption  
of new  
residents

**16.**—(1) No person shall operate or drive a motor vehicle on a highway as a chauffeur unless he is licensed so to do, and no person shall employ anyone to drive a motor vehicle who is not a licensed chauffeur. R.S.O. 1960, c. 172, s. 16 (1).

Chauffeur's  
licence

(2) Chauffeurs' licences may be issued by the Minister to such persons for such time and upon such terms and subject to such regulations and restrictions as the Lieutenant Governor in Council may prescribe. R.S.O. 1960, c. 172, s. 16 (3).

Terms of  
licence

(3) The holder of a chauffeur's licence shall submit to such examination in respect of the operation of a motor vehicle as and when required by the Minister and,

Re-  
examination

- (a) the licence of any such person who fails to take or complete such examination when required shall be cancelled by the Minister; and
- (b) the licence of any such person who completes such examination may be confirmed, suspended, cancelled or reissued in accordance with subsection 2 by the Minister. 1968, c. 50, s. 6.

Production  
of licence

**17.**—(1) Every chauffeur shall carry his chauffeur's licence with him at all times while he is in charge of a motor vehicle and shall produce it when demanded by a constable or by an officer appointed for carrying out the provisions of this Act. R.S.O. 1960, c. 172, s. 17 (1).

Identifica-  
tion on  
failure to  
produce  
licence

(2) Every person who is unable or refuses to produce his licence in accordance with subsection 1 shall, when requested by a constable, give reasonable identification of himself and, for the purposes of this subsection, the correct name and address of such person shall be deemed to be reasonable identification. 1968-69, c. 45, s. 11.

Drivers  
under 16  
prohibited

**18.**—(1) No person under the age of sixteen years shall drive or operate a motor vehicle or farm tractor on a highway.

Employ-  
ment of  
drivers  
under 16  
prohibited

(2) No person shall employ or permit anyone under the age of sixteen years to drive or operate a motor vehicle or farm tractor on a highway.

Exception

(3) Subsections 1 and 2 do not apply in respect of the driving or operating of a farm tractor directly across a highway. R.S.O. 1960, c. 172, s. 18 (1-3).

Prohibition  
as to letting  
or hiring

**19.**—(1) No person shall hire or let for hire a motor vehicle unless the person by whom the motor vehicle is to be driven is a person licensed to drive a motor vehicle as required by this Act.

Non-  
resident's  
licence

(2) Subsection 1 does not apply to a resident of any other province of Canada who does not reside or carry on business in Ontario for more than six consecutive months in any one year or to a resident of a country or state that grants similar exemptions and privileges to residents of Ontario, who does not reside in Ontario for more than three consecutive months in any one year, provided such person is the holder of a chauffeur's or operator's licence issued by the province, country or state in which he resides.

Production  
of licence  
when hiring  
motor  
vehicle

(3) Every person, whether a resident of Ontario or not, hiring a motor vehicle shall produce his operator's or chauffeur's licence for the inspection of the person from whom the vehicle is being hired. R.S.O. 1960, c. 172, s. 19 (1-3).

Suspension  
on convic-  
tion for  
criminal  
negligence,  
etc., or  
driving  
while  
intoxicated

**20.**—(1) Subject to section 25, the licence of a person who is convicted of an offence under section 192, 193 or 207 of the *Criminal Code* (Canada) committed by means of a motor vehicle or of an offence under subsection 1 of section 221 of the *Criminal Code* (Canada) is thereupon and hereby suspended for a period of,

1953-54,  
c. 51 (Can.)

- (a) upon the first offence, six months, but where injury to or the death of any person or damage to property occurred in connection with the offence, one year;

- (b) upon any subsequent offence, one year, but where injury to or the death of any person or damage to property occurred in connection with the offence, two years;

provided that, if an order is made under subsection 1 of section 225 of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period. 1953-54, c. 51 (Can.) 1960-61, c. 34, s. 2, *part*; 1968-69, c. 45, s. 14 (1).

(2) Where a person who has previously been convicted of an offence mentioned in subsection 1 is convicted of the same or any other offence mentioned in subsection 1, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purposes of clause *b* of subsection 1. 1960-61, c. 34, s. 2, *part*.

(3) Where a person has been convicted of an offence under subsection 4 of section 221 or section 222, 223 or 224 of the *Criminal Code* (Canada) and also has been convicted of any one of the offences mentioned in subsection 1, the second and each subsequent conviction for any of such offences shall be deemed to be a conviction for a subsequent offence for the purposes of clause *b* of subsection 1. 1960-61, c. 34, s. 2, *part*; 1961-62, c. 52, s. 3; 1968-69, c. 45, s. 14 (2).

**21.**—(1) Subject to section 25, the licence of a person who is convicted of an offence under subsection 4 of section 221 or section 222, 223 or 224 of the *Criminal Code* (Canada) is thereupon and hereby suspended for a period of,

- (a) upon the first offence, three months, but where injury to or the death of any person or damage to property occurred in connection with the offence, six months;
- (b) upon any subsequent offence, six months, but where injury to or the death of any person or damage to property occurred in connection with the offence, one year;

provided that, if an order is made under subsection 1 of section 225 of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period. R.S.O. 1960, c. 172, s. 21; 1960-61, c. 34, s. 3; 1961-62, c. 52, s. 4 (1); 1968-69, c. 45, s. 15.

(2) Where a person who has been previously convicted of an offence mentioned in subsection 1 is convicted of the same or another offence mentioned in subsection 1, the second and each subsequent conviction for any of such offences shall be deemed to be a subsequent offence for the purposes of clause *b* of subsection 1. 1961-62, c. 52, s. 4 (2).



Interpre-  
tation of  
"subse-  
quent" for  
ss. 20, 21,  
23

**22.** Where a penalty is provided in sections 20, 21 and 23 for a subsequent offence, the word "subsequent" relates only to offences committed in any five-year period. 1960-61, c. 34, s. 4; 1961-62, c. 52, s. 5; 1968-69, c. 45, s. 16.

Suspension  
for failure  
to stop at  
scene of  
accident  
1953-54,  
c. 51 (Can.)

**23.** The licence of a person who is convicted of an offence under subsection 2 of section 221 of the *Criminal Code* (Canada) is thereupon and hereby suspended for a period of,

- (a) upon the first offence, where property damage only occurred in connection with the offence, three months;
- (b) upon the first offence, where injury to or the death of any person occurred in connection with the offence, six months;
- (c) upon any subsequent offence, six months, but where injury to or the death of any person occurred in connection with the offence, one year;

provided that, if an order is made under subsection 1 of section 225 of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period. 1961-62, c. 52, s. 6, *part*.

Suspension  
for driving  
while dis-  
qualified

**24.** The licence of a person who is convicted of an offence under subsection 3 of section 225 of the *Criminal Code* (Canada) is thereupon and hereby suspended for a period of six months in addition to the period of suspension with respect to which he was convicted under such subsection 3. 1961-62, c. 52, s. 6, *part*.

Restricted  
licence

**25.**—(1) Where the licence of a person is suspended for a period of one year under clause *a* of subsection 1 of section 20 or of six months under clause *a* of subsection 1 of section 21 by reason only of damage to property in connection with the offence, the provincial judge may, if in his opinion the licence is essential to the licensee in carrying on the occupation by which he earns his living, recommend to the Minister that a restricted licence be issued to such person and upon such recommendation the Minister may issue a restricted licence to such person subject to such conditions as he may consider proper. R.S.O. 1960, c. 172, s. 22 (1); 1964, c. 38, s. 2 (1).

Term of  
restricted  
licence

(2) Notwithstanding sections 13 and 16, a restricted licence issued under subsection 1 authorizes the person to whom it is issued to operate or drive a motor vehicle for the last six-month period of the suspension under clause *a* of subsection 1 of section 20 or for the last three-month period of the suspension under clause *a* of subsection 1 of section 21, as the case may be. R.S.O. 1960, c. 172, s. 22 (2); 1964, c. 38, s. 2 (2).

(3) Every person to whom a restricted licence is issued who operates or drives a motor vehicle in contravention of the conditions of the licence is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100, and in addition the licence shall be cancelled. R.S.O. 1960, c. 172, s. 22, (3). Penalty

**26.** A provincial judge or justice of the peace by whom a person is convicted of a contravention of this Act, if the person convicted is required to hold an operator's licence or a chauffeur's licence and does not hold such licence, may declare him disqualified to hold such a licence for such time as the provincial judge or justice of the peace thinks fit and shall so report with the certificate of the conviction to the Minister. R.S.O. 1960, c. 172, s. 24. When chauffeur may be disqualified

**27.**—(1) The Registrar may, at any time for misconduct or contravention of the provisions of this Act, *The Public Vehicles Act* or *The Public Commercial Vehicles Act* or of any regulation thereunder by an owner, operator or chauffeur of a motor vehicle or for any reason that he may consider sufficient, suspend or cancel any permit or licence, and no further or other licence or permit shall be issued to such owner, operator or chauffeur during such suspension or, in the case of a cancellation, until the Registrar approves, and the Registrar may also for such misconduct or contravention or reason prohibit any person from driving a motor vehicle for such period as he may consider advisable and every such person who drives a motor vehicle during the prohibited period is liable to a fine of not more than \$500. R.S.O. 1960, c. 172, s. 25 (1); 1965, c. 46, s. 4. Power to cancel permit or licence and to prohibit driving  
R.S.O. 1970, cc. 392, 375

(2) Every person whose permit has been suspended or cancelled and who, while prohibited from having a motor vehicle registered in his name, applies for or procures the issue to him or has in his possession a permit issued to him is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100 and to imprisonment for a term of not more than thirty days. Unlawful possession of permit

(3) Every person whose licence has been suspended or cancelled and who, while prohibited from driving a motor vehicle, applies for or procures the issue to him or has in his possession a licence is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100 and to imprisonment for a term of not more than thirty days. R.S.O. 1960, c. 172, s. 25 (2, 3). Unlawful possession of licence

**28.**—(1) There shall be a board known as the Licence Suspension Appeal Board, which shall consist of three or more members appointed by the Lieutenant Governor in Council, and one of them shall be designated as chairman. Licence Suspension Appeal Board

- Remuneration (2) The members of the Board shall be paid such remuneration as is determined by the Lieutenant Governor in Council.
- Regulations (3) The Lieutenant Governor in Council may make regulations prescribing the duties of the Board, the fees to be paid on applications and the rules of practice and procedure applicable to procedures before the Board. 1965, c. 46, s. 5, *part*.
- Appeal **29.**—(1) Every person who deems himself aggrieved by a decision of the Registrar under section 27 may appeal the decision to the Licence Suspension Appeal Board.
- Powers of Board (2) The Board may confirm, modify or set aside the decision of the Registrar.
- Appeal to county judge (3) Every person who deems himself aggrieved by a decision of the Board may, within thirty days after a notice of the decision is sent to his latest address as recorded with the Board, appeal the decision of the Board to a judge of the county or district court of the county or district in which the person resides.
- Powers of judge (4) The judge may confirm, modify or set aside the decision of the Board.
- Application of s. 32 (5) Section 32 does not apply to the suspension or cancellation of a licence or permit under section 27. 1965, c. 46, s. 5, *part*.
- Penalty for operating motor vehicle when permit suspended or cancelled **30.** Every person who operates a motor vehicle the permit for which is under suspension or has been cancelled is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both. 1968-69, c. 45, s. 18.
- Where person whose permit or licence suspended does not hold permit or licence **31.** Where by or under the provisions of this Act a permit or licence is suspended and the person to whom the suspension applies is not the holder of a permit or licence, as the case may be, such person shall be deemed for all the purposes of this Act to be a person whose permit or licence, as the case may be, has been suspended. R.S.O. 1960, c. 172, s. 27.
- Suspension on appeal **32.** If a person whose licence has been suspended enters an appeal against his conviction, the suspension does not apply unless the conviction is sustained on appeal. R.S.O. 1960, c. 172, s. 28; 1970, c. 74, s. 1.
- Demerit point system **33.** The Lieutenant Governor in Council may make regulations providing for a demerit point system for drivers of motor vehicles and under such system may provide for the cancellation and suspension of licences and may require the attendance of any driver before any official of the Department to show cause why his licence should not be cancelled or suspended. R.S.O. 1960, c. 172, s. 29.

**34.**—(1) In this section, “driving instructor” means a person who teaches persons to operate motor vehicles and receives compensation therefor. Driving instructor

(2) The Lieutenant Governor in Council may make regulations licensing, regulating and governing driving instructors and the teaching of persons to operate motor vehicles. Regulations

(3) Where there is a conflict between this section and the regulations and a by-law of a municipal council or board of police commissioners regulating or governing driving instructors, this Act and the regulations prevail. R.S.O. 1960, c. 172, s. 30. Conflict between section and by-law

## PART IV

### GARAGE AND STORAGE LICENCES

**35.**—(1) No person shall store or deal in motor vehicles, or conduct what is known as a garage business, parking station, parking lot or used car lot or the wrecking or dismantling of vehicles without having been licensed so to do by the Department in respect of each separate premises used by him for the purpose of such business, but this section does not apply to a temporary parking lot that is being operated for a period of not more than two consecutive weeks. Garage, storage, etc., licences

(2) The fee for the licence shall be such as may be fixed from time to time by the Lieutenant Governor in Council on the recommendation of the Minister. R.S.O. 1960, c. 172, s. 31 (1, 2). Fee

(3) Every person who stores or deals in motor vehicles or conducts a garage business, parking station, parking lot or used car lot or the wrecking or dismantling of vehicles without a licence is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50. 1968-69, c. 45, s. 19 (1). Fine for conducting business without licence

(4) Any constable or any officer appointed for carrying out the provisions of this Part may enter into any place where motor vehicles or bicycles are stored or dealt in, or into any garage, parking station, parking lot or used car lot or premises used for the wrecking or dismantling of vehicles required to be licensed, and make such investigation and inspection as he thinks proper. R.S.O. 1960, c. 172, s. 31 (4). Right of entry and inspection

(5) Every person who obstructs, molests or interferes with any constable or officer in the performance of his duties under subsection 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than six months, or to both. 1968-69, c. 45, s. 19 (2). Penalty for interference with constable



Minister  
may sus-  
pend or can-  
cel licence

(6) The Minister may suspend or cancel the licence issued for a garage business, parking station, parking lot or used car lot or premises used for the wrecking or dismantling of vehicles for misconduct or for non-compliance with or infraction of any of the provisions of this Act or of the regulations by the holder of such licence or by any of his employees or for any other reason appearing to him to be sufficient.

Regulations

(7) The Lieutenant Governor in Council, upon the recommendation of the Minister, may make regulations controlling and governing the conduct of a garage business, parking station, parking lot or used car lot or the wrecking or dismantling of vehicles. R.S.O. 1960, c. 172, s. 31 (6, 7).

Record of  
second-  
hand  
vehicles  
bought,  
sold, etc.

**36.**—(1) All persons who buy, sell, wreck or otherwise deal in second-hand motor vehicles or bicycles shall keep a correct record of all motor vehicles and bicycles bought, sold or wrecked and of such information as will enable such motor vehicles and bicycles to be readily identified, and shall transmit within six days to the Department, on forms furnished by the Department, a statement of each motor vehicle bought, sold or wrecked by them and such information with reference thereto as may be required by the Department. R.S.O. 1960, c. 172, s. 32 (1).

Prohibition  
as to buying  
where  
number  
obliterated

(2) No person shall buy, sell, wreck or otherwise deal with any motor vehicle or bicycle or a trailer that has a gross weight exceeding 6,000 pounds where the manufacturer's serial number or similar identifying mark has been obliterated or defaced or is not readily recognizable. R.S.O. 1960, c. 172, s. 32 (2); 1962-63, c. 56, s. 7 (1).

Defacing  
serial  
number

(3) No person shall deface or remove the manufacturer's serial number or identifying mark from a motor vehicle or from the engine thereof or from a bicycle or from a trailer that has a gross weight exceeding 6,000 pounds. R.S.O. 1960, c. 172, s. 32 (3); 1962-63, c. 56, s. 7 (2).

Report to  
Department  
as to cars  
stored or  
parked

(4) Where any motor vehicle is placed in the possession of a person who repairs, buys, sells, wrecks or stores motor vehicles or conducts what is known as a garage business, parking station, parking lot or used car lot and the same remains in his possession for more than two weeks without good reason, such person shall forthwith, upon the expiration of such period of two weeks, make a report thereof to the Department.

Report as to  
damaged  
or bullet-  
marked cars

(5) If a motor vehicle that shows evidence of having been involved in a serious accident or having been struck by a bullet is brought into a garage, parking station, parking lot, used car lot or repair shop, the person in charge of the garage, parking station, parking lot, used car lot or repair shop shall forthwith report the same to the nearest provincial or municipal police officer, giving the name and address of the owner or operator and also the permit

number and a description of the vehicle. R.S.O. 1960, c. 172, s. 32 (4, 5).

(6) Every person who contravenes any of the provisions of, Penalty

- (a) subsection 1 or 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50;
- (b) subsection 2, 3 or 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both. 1968-69, c. 45, s. 20.

## PART V

### EQUIPMENT

**37.**—(1) When on a highway at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less, every motor vehicle shall carry three lighted lamps in a conspicuous position, one on each side of the front of the vehicle which shall display a white or amber light only, and one on the rear of the vehicle which shall display a red light only, except in the case of a motorcycle without a side car, which shall carry one lamp on the front of the vehicle which shall display a white light only and one on the rear of the vehicle which shall display a red light only, and any lamp so used shall be clearly visible at a distance of at least 500 feet from the front or rear, as the case may be. Lamps required on all motor vehicles

(2) No person shall sell, offer or expose for sale,

- (a) a new motor vehicle manufactured after the 1st day of January, 1966, other than a commercial motor vehicle or a motorcycle, unless, Lamps and reflectors required on rear of new motor vehicles
  - (i) there is affixed to each side of the rear thereof in a conspicuous position a lamp, which when lighted shall display a red light only, which shall be clearly visible at a distance of at least 500 feet from the rear of the vehicle, and
  - (ii) there is affixed to each side of the rear thereof and placed in such a position as to reflect the light from the headlamps of a motor vehicle approaching from the rear a red reflector approved by the Department or, in lieu of each reflector, red reflective material covering a surface of not less than 16 square inches; or

- (b) a motorcycle, unless there is affixed to the rear thereof and placed in such a position as to reflect the light from the headlamps of a motor vehicle approaching from the rear a red reflector approved by the Department or red reflective material covering a surface of not less than 16 square inches. 1965, c. 46, s. 6 (1).

Driving  
lights

(3) Lamps on the front of a motor vehicle shall be so constructed, located, arranged and adjusted that when lighted as required by subsection 1 they produce under normal atmospheric conditions and on a level road a driving light sufficient to render clearly discernible to the operator of the motor vehicle any person or vehicle on the highway within a distance of 350 feet ahead of the motor vehicle. R.S.O. 1960, c. 172, s. 33 (3); 1961-62, c. 52, s. 7 (1).

Lighted  
streets

(4) Subsection 3 does not apply to a motor vehicle parked on a highway and subsections 1, 6, 9, 11, 20, 21, 23 and 24 do not apply to a vehicle parked on a highway upon which the speed limit is not greater than 30 miles per hour and which is so lighted by the means of any system of street or highway lighting that the vehicle is clearly discernible within a distance of 200 feet. R.S.O. 1960, c. 172, s. 33 (4); 1965, c. 46, s. 6 (2).

Strength of  
front lamps

(5) No motor vehicle shall carry on the front thereof more than four lighted lamps that project a beam having an intensity of over 300 candle-power. R.S.O. 1960, c. 172, s. 33 (5).

Clearance  
lamps  
required  
on wide  
vehicles

(6) When on a highway at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less,

- (a) every commercial motor vehicle and trailer having a width at any part in excess of 80 inches, other than a truck tractor, shall carry, in addition to the lamps required by subsection 1, two lighted clearance lamps, one on each side of the front of the vehicle, which shall display an amber light, and two lighted clearance lamps, one on each side of the rear of the vehicle, which shall display a red light; or
- (b) every truck tractor having a width at any part in excess of 80 inches shall carry, in addition to the lamps required by subsection 1, two lighted clearance lamps, one on each side of the front of the vehicle, which shall display an amber light, and one lighted clearance lamp on the left side of the rear of the vehicle, which shall display a red light,

and the Department may by regulation permit a reflector, approved by the Department, to be displayed in lieu of clearance lamps on the rear of the vehicle, and all such lamps shall be affixed

within 6 inches of the side of the vehicle or, where a commercial motor vehicle is equipped with a rear vision mirror or mirrors that extend in whole or in part beyond the side of the vehicle, the clearance lamps at the front of the vehicle shall be affixed to such mirror or mirrors. 1965, c. 46, s. 6 (3); 1966, c. 64, s. 5 (1).

(7) No person shall sell, offer or expose for sale a new motor vehicle manufactured after the 1st day of January, 1961, other than a commercial motor vehicle, having a width in excess of 80 inches unless it is equipped with clearance lamps as prescribed in subsection 6. R.S.O. 1960, c. 172, s. 33 (7).

Sale of new motor vehicles over 80 inches in width without clearance lamps prohibited

(8) Every person who contravenes subsection 2 or 7 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. 1968-69, c. 45, s. 21 (1).

Penalty

(9) When on a highway outside a city, town or village at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less, every commercial motor vehicle or combination of a commercial motor vehicle and a trailer having a length in excess of 30 feet or a width in excess of 80 inches shall carry three lighted lamps displaying green or amber lights at the front, except in the case of a public vehicle which shall display amber lights at the front, and three lighted lamps displaying red lights at the rear, and the lights of each colour shall be evenly placed not less than six nor more than twelve inches apart along a horizontal line as near the top of the commercial motor vehicle or combination of a commercial motor vehicle and a trailer as the permanent structure permits, and shall be visible for distances of 500 feet from the front and rear respectively of the commercial motor vehicle or combination of a commercial motor vehicle and a trailer. 1965, c. 46, s. 6 (4).

Identification lamps

(10) Notwithstanding subsection 9, a truck tractor operated on a highway without a trailer or semi-trailer is not required to carry the three red lamps displaying red lights to the rear. 1968, c. 50, s. 7.

Rear identification lamps on tractors without trailer

(11) When on a highway outside a city, town or village at any time from one-half hour after sunset to one half-hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less, every motor vehicle or combination of vehicles having a length in excess of 20 feet shall carry not fewer than four lighted side marker lamps, one of which shall be located on each side of the vehicle or combination of vehicles near the front and shall display a green or amber light and one of which shall be located on each side of the vehicle or combination of vehicles near the rear and shall display a red light and each of which lights shall be visible for

Side marker lamps



a distance of 500 feet from the side of the vehicle or combination of vehicles upon which it is located; provided that a vehicle or combination of vehicles may carry four reflectors approved by the Department in lieu of the side marker lamps required by this section; and provided further that, if the clearance lamps upon the left side of any vehicle or combination of vehicles display lights visible for a distance of 500 feet from the left side of the vehicle or combination of vehicles, it is not necessary to carry side marker lamps as required by this subsection on the left side of the vehicle. 1965, c. 46, s. 6 (5).

Red light  
in front

(12) In addition to the lighting requirements in this Part, an ambulance, fire department vehicle, police department vehicle, public utility emergency vehicle or school bus may carry a lamp or lamps that cast a red light only or such other colour of light that may, with the approval of the Department, be designated by a by-law of the municipality in which the vehicle is operated, but no other motor vehicle shall carry any lamp that casts a red light to the front. 1966, c. 64, s. 5 (2).

Vehicles of  
volunteer  
fire fighters  
R.S.O. 1970,  
c. 169

(13) A volunteer fire fighter under *The Fire Departments Act* may carry on the left front fender of his motor vehicle a lamp not exceeding 4 inches in diameter displaying an amber and a white flashing light showing the letters "V.F.F.", which lamp shall be illuminated only when such motor vehicle is proceeding to a fire or other emergency, and no other motor vehicle shall carry any such lamp. 1967, c. 35, s. 2.

Bicycles  
and tri-  
cycles,  
lights on,  
etc.

(14) When on a highway at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less, every bicycle or tricycle shall carry on the front thereof a lighted lamp displaying a white or amber light and on the rear thereof a lighted lamp displaying a red light or a reflector approved by the Department, and in addition there shall be placed on the front forks thereof white reflective material, and on the rear thereof red reflective material covering a surface of not less than ten inches in length and one inch in width. 1965, c. 46, s. 6 (6), *part*.

Penalty

(15) Every person who contravenes subsection 14 is guilty of an offence and on summary conviction is liable to a fine of not more than \$5. 1968-69, c. 45, s. 21 (3).

Rear  
lamps to  
illuminate  
number  
plate

(16) The lamp on the rear of a motor vehicle or trailer shall be of at least three candle-power and shall be so placed that it will, at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less,

illuminate the numbers on the number plate, or, if provision is made on the number plate or on any attachment furnished or required by the Department for affixing such lamp, it shall be affixed in the position or space provided, and such lamp shall face to the rear and reflect on the number plate a white light only. 1965, c. 46, s. 6 (6), *part*.

(17) A motor vehicle, other than a commercial motor vehicle, while standing upon a highway at such times as lights are required by this section for the vehicle may, in lieu of the lighting equipment specified in this section, show one light carried on the left side of the vehicle in such a manner as to be clearly visible to the front and rear for a distance of at least 200 feet and to show white to the front and red to the rear of the vehicle; provided that such light shall not be displayed while the motor vehicle is in motion.

Parking  
lights

(18) The Lieutenant Governor in Council may make regulations,

Regulations  
as to lights  
on vehicles

- (a) prescribing the type and maximum strength of lights that shall be carried by vehicles, and regulating the location, direction, focus and use of such lights;
- (b) regulating or prohibiting the use of lights on vehicles that automatically produce intermittent flashes of light.

(19) No motor vehicle shall be equipped with more than one spotlamp and every lighted spotlamp shall be so directed, upon approaching or upon the approach of another vehicle, that no part of the high intensity portion of the beam from such lamp will be directed to the left of the prolongation of the extreme left side, nor more than 100 feet ahead, of the vehicle to which it is attached. R.S.O. 1960, c. 172, s. 33 (17-19).

Spotlamps

(20) Every traction engine shall, at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less, carry a lighted lamp in a conspicuous place in front, which shall display a white or green light only, and one on the rear of the engine or of any vehicle that may be attached to it, which shall display a red light only.

Lamps to  
be carried  
on engine

(21) When on a highway at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less, every trailer and every object or contrivance drawn by a vehicle shall carry on the rear thereof one lighted lamp, which shall display a red light only. 1965, c. 46, s. 6 (6), *part*.

Lamps  
required  
on rear of  
trailer, etc.

Lights on vehicles, objects and contrivances over 96 inches in width

(22) When on a highway at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less, every vehicle, and every object or contrivance drawn by a vehicle, having a width at any part in excess of 96 inches, shall carry at the rear two lighted lamps displaying red lights or two red reflectors, one of which shall be affixed as nearly as possible to the extreme left side and one as nearly as possible to the extreme right side of the vehicle, and such lamps or reflectors shall be clearly visible at a distance of at least 500 feet from the rear of the vehicle. 1965, c. 46, s. 6 (7).

Lamps on all vehicles, except motor vehicles, etc.

(23) Subject to subsection 25, every vehicle, other than a motor vehicle, bicycle, tricycle or a vehicle referred to in subsection 21, 22 or 24, when on a highway at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less, shall carry in a conspicuous position on the left side thereof a lighted lamp which shall display a white light to the front and a red light to the rear or a lighted lamp which shall display a white light to the front and a lighted lamp which shall display a red light to the rear, and any lamp so used shall be clearly visible at a distance of at least 500 feet from the front and the rear of the vehicle, as the case may be. 1965, c. 46, s. 6 (8).

Lights on farm tractors

(24) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry equipped with an electric lighting system, when on a highway at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet or less, shall carry the lighted lamps required for motor vehicles under subsection 1. 1965, c. 46, s. 6 (9).

Reflectors in certain cases

(25) The Department may by regulation permit a reflector approved by the Department to be displayed in lieu of a lighted lamp on vehicles commonly used for conveying flammable materials or vehicles that are structurally unsuitable for carrying lighted lamps. R.S.O. 1960, c. 172, s. 33 (26).

Signalling devices required on new motor vehicles

(26) No person shall sell a new motor vehicle, other than a motorcycle, unless it is equipped with mechanical or electrical signalling devices that comply with subsections 5 and 7 of section 94. R.S.O. 1960, c. 172, s. 33 (28).

Penalty

(27) Every person who contravenes any of the provisions of subsection 26 is guilty of an offence and on summary conviction is

liable to a fine of not less than \$100 and not more than \$500. 1968-69, c. 45, s. 21 (6).

(28) Every motor vehicle or combination of motor vehicle and trailer having a width at any part in excess of 80 inches or having a length in excess of 20 feet shall be equipped with mechanical or electrical signalling devices that comply with subsections 5 and 7 of section 94.

Signalling  
devices  
required on  
trucks,  
buses, etc.

(29) Where any light is required by any provision of this Act to be visible for a specified distance, such requirement shall be deemed to apply during the times indicated in such provision upon level ground and under normal atmospheric conditions. R.S.O. 1960, c. 172, s. 33 (29, 30).

Visibility  
of lights

(30) No person shall operate on a highway a motor vehicle or road-building machine while being used for the removal of snow from a highway unless the motor vehicle or road-building machine is equipped with a lamp producing intermittent flashes of blue light visible for a distance of 500 feet.

Flashing  
blue light  
on snow-  
removal  
equipment

(31) No person shall use a lamp that automatically produces intermittent flashes of blue light on a motor vehicle or road-building machine other than a motor vehicle or road-building machine while being used for the removal of snow from a highway. 1961-62, c. 52, s. 7 (2).

Restriction  
on use of  
flashing  
blue light

**38.** Every vehicle that is equipped with a right hand drive shall, unless it is equipped with a mechanical or electrical signal device as described in subsection 5 of section 94, have prominently displayed on the rear thereof, in bold face letters of not less than two inches in height and of a colour which is in contrast to that of the vehicle, the words,

Vehicles  
with right  
hand drive

“RIGHT HAND DRIVE VEHICLE”.

R.S.O. 1960, c. 172, s. 34.

**39.**—(1) Every motor vehicle, other than a motorcycle, when operated on a highway shall be equipped with at least two braking systems, each with a separate means of application and effective on at least two wheels, one of which shall be adequate to stop the vehicle as required by regulations made by the Department and the other of which shall be adequate to hold the vehicle stationary. R.S.O. 1960, c. 172, s. 35 (1).

Brakes, two  
systems  
required

(2) Every motorcycle when being operated on a highway shall be equipped with at least two braking systems each with a separate means of application with one effective on the front wheel and one effective on the rear wheel. 1967, c. 35, s. 3 (1).

Motorcycle



Trailer or  
semi-trailer

(3) Every trailer or semi-trailer having a gross weight of 3,000 pounds or more shall be equipped with brakes adequate to stop and to hold the vehicle. R.S.O. 1960, c. 172, s. 35 (3).

Additional  
brakes

(4) The Lieutenant Governor in Council may make regulations,

- (a) requiring vehicles or any type or class thereof to be equipped with brakes or braking systems in addition to the brakes required by subsection 1, 2 or 3; and
- (b) prescribing the standards and specifications of brakes and braking systems or any class or type thereof that are required by this section or regulations made under clause *a*. 1961-62, c. 52, s. 8 (1).

Condition  
of brakes

(5) All such brakes and braking systems shall be maintained in good working order and shall conform to the regulations made under this section.

Inspection

(6) Any constable or any officer appointed for carrying out the provisions of this Act may at any time inspect or cause an inspection to be made of the brakes and braking systems on any vehicle on the highway, and may, if the brakes or braking systems do not conform to the regulations made under this section, require the driver of the vehicle to proceed forthwith to make or have such brakes and braking systems made to comply with such regulations. 1967, c. 35, s. 3 (2).

Brake  
fluid

**40.**—(1) No person shall sell or offer for sale hydraulic brake fluid, for use in vehicles upon a highway, that does not comply with the standards and specifications prescribed by the regulations or in containers not marked in compliance with the regulations.

Regulations

(2) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards and specifications of hydraulic brake fluid or any type or class thereof for use in vehicles;
- (b) providing for the identification and labelling of containers used for hydraulic brake fluid or any type or class thereof. R.S.O. 1960, c. 172, s. 36.

Adoption  
of codes by  
reference

(3) Any regulation may adopt by reference, in whole or in part with such changes as the Lieutenant Governor in Council considers necessary, any code of standards or specifications of hydraulic brake fluid. 1960-61, c. 34, s. 5.

Penalty

(4) Every person who contravenes any of the provisions of this section or any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. 1968-69, c. 45, s. 23.

**41.**—(1) Every motor vehicle other than a motorcycle shall be equipped with, Windshield wiper, mirror

- (a) a device for cleaning rain, snow and other moisture from the windshield so constructed as to be controlled or operated by the chauffeur or operator;
- (b) a mirror or mirrors securely attached to the vehicle and placed in such a position as to afford the chauffeur or operator a clearly reflected view of the roadway in the rear, or of any vehicle approaching from the rear. R.S.O. 1960, c. 172, s. 37 (1); 1964, c. 38, s. 4.

(2) Every motor vehicle and every trailer shall be equipped with mudguards or fenders or other device adequate to reduce effectively the wheel spray or splash of water from the roadway to the rear thereof, unless adequate protection is afforded by the body of the motor vehicle or trailer or by a trailer drawn by the motor vehicle. Mudguards

(3) Subsection 2 does not apply to motor vehicles or trailers in an unfinished condition while proceeding to a works for completion. R.S.O. 1960, c. 172, s. 37 (2, 3). Exception

(4) Every motor vehicle other than a motorcycle shall be equipped with an odometer in good working order. 1968, c. 50, s. 8. Odometers

**42.** Every bus when operated on a highway shall be equipped with a speedometer which shall be maintained in good working order. 1961-62, c. 52, s. 9. Speedometers required in buses

**43.**—(1) All self-propelled vehicles other than traction engines, and all trailers having a gross weight in excess of two tons, shall be equipped with rubber tires or tires of some composition equally resilient, and a vehicle shall not be operated on any highway with a tire that is broken or defective in such a manner as to cause additional impact or pounding on or cutting of the highway, and in the case of motor vehicles and trailers equipped with solid rubber tires there shall be at least one and one-quarter inches of rubber between the wheel rim and the roadway. Requirements as to tires

(2) No vehicles shall be operated or object moved over or upon any highway with any flange, rib, clamp or other device attached to its wheels, or made a part thereof, which will injure the highway. Flanges and clamps

(3) No person driving a vehicle drawn by a horse or other animal and used for carrying articles of burden, goods, wares or merchandise shall when descending a grade on a highway lock any wheel of such vehicle except with the device commonly known as a lock-shoe. R.S.O. 1960, c. 172, s. 38 (1-3). Lock-shoes

Tire  
specifica-  
tions

**44.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards and specifications of tires to be used on vehicles or any class or classes thereof;
- (b) providing for and requiring the identification and marking of tires;
- (c) prohibiting the sale of tires or any type thereof that do not comply with the standards and specifications therefor prescribed by the regulations and that are not marked in accordance with the regulations;
- (d) prohibiting the use of any type of tire on a highway during any period of the year and designating such period.

Codes

(2) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, and may require compliance with any code that is so adopted. 1967, c. 35, s. 4.

Penalty

(3) Every person who contravenes any regulation made under clause *a*, *b* or *c* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. 1968-69, c. 45, s. 26.

Rebuilt  
tires,  
interpre-  
tation

**45.**—(1) In this section, “rebuild” means to make or impose a new tread or new surface or to otherwise alter the surface of a used tire so that it will resemble a new tire, by cutting into or adding rubber to the surface thereof, or by a combination of both.

to be  
marked

(2) No person shall rebuild any tire designed for use upon a motor vehicle unless he causes it to be indicated in letters of not less than one-half inch in height, clearly embossed upon or imposed or cut into the outside surface of each wall of the tire, that it has been rebuilt.

Idem

(3) No person shall sell, offer or expose for sale, or have in his possession with intent to sell, any tire designed for use upon a motor vehicle that has been rebuilt unless it is indicated in letters of not less than one-half inch in height, clearly embossed upon or imposed or cut into the outside surface of each wall of the tire, that it has been rebuilt. R.S.O. 1960, c. 172, s. 39 (1-3).

Penalty

(4) Every person who contravenes any of the provisions of subsection 2 or 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.- 1968-69, c. 45, s. 27.

Safety glass,  
interpreta-  
tion

**46.**—(1) In this section, “motor vehicle” includes any apparatus or device that is permanently or temporarily attached to a motor vehicle, other than for the purpose of towing it, and in which a person can ride. 1968-69, c. 45, s. 28, *part*.

(2) No person shall sell any new motor vehicle nor shall any new motor vehicle be registered with the Department unless such vehicle is equipped with safety glass wherever glass is used in doors, windows and windshields.

Motor vehicles to be equipped with safety glass

(3) No person shall install glass other than safety glass in the door, window or windshield of any motor vehicle. R.S.O. 1960, c. 172, s. 40.

Installation of safety glass

(4) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. 1968-69, c. 45, s. 28, *part*.

Penalty

**47.**—(1) No person shall drive a motor vehicle upon a highway,

Signs, objects, etc., obstructing view prohibited

(a) with any sign, poster or other non-transparent material or object placed on the windshield or on any window of such motor vehicle; or

(b) with any object placed in, hung on or attached to such motor vehicle,

in such manner as will obstruct the driver's view of the highway or any intersecting highway.

(2) This section does not prevent the use of signs, markers or equipment required under this Act or the regulations. R.S.O. 1960, c. 172, s. 41.

Signs, etc., required by Act or regulations

**48.**—(1) No person shall drive a motor vehicle upon a highway,

Windows to afford clear view

(a) unless the windshield and the windows on either side of the compartment containing the steering wheel are in such a condition as to afford the driver a clear view to the front and side of the motor vehicle; and

(b) unless the rear window is in such a condition as to afford the driver a clear view to the rear of the motor vehicle.

(2) Clause *b* of subsection 1 does not apply to a motor vehicle that is equipped with a mirror or mirrors securely attached to the motor vehicle and placed in such a position and maintained in such a condition as to afford the driver, otherwise than through the rear window, a clearly-reflected view of the roadway in the rear or of any vehicle approaching from the rear. 1966, c. 64, s. 7.

Application of subs. 1. cl. b

**49.**—(1) Every motor vehicle shall be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and excessive smoke, and no person shall use a muffler cut-out, straight exhaust, gutted muffler, hollywood muffler, by-pass or similar device upon a motor vehicle. R.S.O. 1960, c. 172, s. 42 (1); 1967, c. 35, s. 5.

Muffler



Fumes from  
engine

(2) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. R.S.O. 1960, c. 172, s. 42 (2).

Unnecessary  
noise

(3) A person having the control or charge of a motor vehicle shall not sound any bell, horn or other signalling device so as to make an unreasonable noise, and an operator or chauffeur of any motor vehicle shall not permit any unreasonable amount of smoke to escape from the motor vehicle, nor shall such operator or chauffeur at any time cause the motor vehicle to make any unnecessary noise, but this subsection does not apply to a motor vehicle of a municipal fire department while proceeding to a fire or answering a fire alarm call. R.S.O. 1960, c. 172, s. 42 (3); 1966, c. 64, s. 8.

Alarm bell  
to be  
sounded

(4) Every motor vehicle, bicycle and tricycle shall be equipped with an alarm bell, gong or horn, which shall be kept in good working order and sounded whenever it is reasonably necessary to notify pedestrians or others of its approach.

Prohibition  
as to use of  
siren horn

(5) No vehicle other than an ambulance, fire or police department vehicle, public utility emergency vehicle or vehicle operated by the Department shall be equipped with a siren horn or a device producing a sound which so nearly resembles that produced by a siren horn as to deceive or confuse. R.S.O. 1960, c. 172, s. 42 (4, 5).

Slow  
moving  
vehicle  
signs

**50.**—(1) Every farm tractor and self-propelled implement of husbandry when operated on a highway or any vehicle towed by either of them, shall have a slow moving vehicle sign attached to the rear thereof in accordance with the regulations, except when directly crossing a highway. 1968, c. 50, s. 9, *part*; 1968-69, c. 45, s. 30.

Regulations

(2) The Lieutenant Governor in Council may take regulations prescribing the type and specifications of the sign referred to in subsection 1, and the location thereof on the vehicle. 1968, c. 50, s. 9, *part*.

Sleigh bells

**51.**—(1) Every person travelling on a highway with a sleigh or sled drawn by a horse or other animal shall have at least two bells attached to the harness or to the sleigh or sled in such a manner as to give ample warning sound. R.S.O. 1960, c. 172, s. 43 (1).

Penalty

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$5. 1968-69, c. 45, s. 31.

Television  
in motor  
vehicle

**52.**—(1) No person shall drive on a highway a motor vehicle that is equipped with a television receiving set,

(a) any part of which is located in the motor vehicle forward of the back of the driver's seat; or

- (b) that is visible to the driver while he is operating the motor vehicle.

(2) No person shall drive on a highway a motor vehicle in which a television set, while being operated, is located in the motor vehicle forward of the back of the driver's seat or is visible to the driver while he is operating the motor vehicle. 1965, c. 46, s. 7.

Operation of television in motor vehicle

**53.** No motor vehicle, other than a motor vehicle in which there is a person licensed to operate a motor vehicle on a highway, trailer or other object or device shall be drawn by a motor vehicle or farm tractor on a highway unless there are two separate means of attachment so constructed and attached that the failure of one such means will not permit the motor vehicle, trailer, object or device being drawn to become detached; but this subsection does not apply to a trailer so designed and used that part of its own weight and of its own load rests upon or is carried by another vehicle or to a trailer or other object or device when drawn directly across a highway by a farm tractor. R.S.O. 1960, c. 172, s. 45 (1).

Attachments required when vehicle drawn on highway

**54.** The Lieutenant Governor in Council may make regulations requiring any type or class of commercial motor vehicle or trailer to be equipped with rear bumpers and prescribing the location and means of attachment of such bumpers and prescribing the specifications for such bumpers. R.S.O. 1960, c. 172, s. 46.

Regulations re bumpers

**55.—(1)** Every constable and every officer appointed for the purpose of carrying out the provisions of this Act may require the driver of any motor vehicle to submit such motor vehicle, together with its equipment and any trailer attached thereto, to such examination and tests as the constable or officer may consider expedient.

Examination of vehicle

(2) Where any such vehicle, equipment or trailer is found to be in a dangerous or unsafe condition, the constable or officer making the examination or tests may require the driver of the vehicle to proceed to have the vehicle, equipment or trailer placed in a safe condition and may order the vehicle or trailer to be removed from the highway and may prohibit the operation of the vehicle or trailer on the highway until the vehicle, equipment or trailer has been placed in a safe condition. R.S.O. 1960, c. 172, s. 47.

Use of unsafe vehicle prohibited

(3) Every driver of a motor vehicle who refuses or fails to submit the motor vehicle, together with its equipment and any trailer attached thereto, to such examination and tests as may be required by a constable or officer under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

Penalty

Notice  
requiring  
examination  
and tests

(4) Subsection 3 does not apply unless the constable or officer under subsection 1 has given to the driver of the motor vehicle a written notice in the form prescribed by the Lieutenant Governor in Council requiring the driver to submit the motor vehicle, together with its equipment and any trailer attached thereto, to examination and tests. 1968-69, c. 45, s. 33.

Seizure  
of plates

(5) Where the operation of a motor vehicle or trailer has been prohibited under subsection 2, the constable or officer may seize the registration plates of the motor vehicle or trailer that is in a dangerous or unsafe condition and hold them until the motor vehicle or trailer has been placed in a safe condition. 1964, c. 38, s. 6, *part*.

Regulations  
re inspection  
of certain  
motor  
vehicles

**56.** The Lieutenant Governor in Council may make regulations,

- (a) requiring the owners of commercial motor vehicles, or any type or class thereof, uninsured motor vehicles, and motor vehicles that have been involved in accidents that are reportable under section 139 to submit them to inspection;
- (b) prescribing the inspection procedures, inspection requirements and performance standards required for such motor vehicles;
- (c) prohibiting the operation on a highway of motor vehicles that do not comply with such requirements and standards, and providing for the seizure of the registration plates of such motor vehicles and for holding them until the motor vehicle is made to comply with such requirements and standards. 1968-69, c. 45, s. 34.

Penalty for  
driving un-  
safe vehicle

**57.** No person shall drive or operate or permit the driving or operation upon a highway of a vehicle that is in such a dangerous or unsafe condition as to endanger the driver or operator or any occupant thereof, or any person upon the highway. R.S.O. 1960, c. 172, s. 48.

Certificate  
of mechan-  
ical fitness  
to be given  
by dealer

**58.**—(1) Except as provided in subsection 2, every dealer in used motor vehicles, before he enters into a contract to sell a used motor vehicle, shall give to the purchaser a certificate of mechanical fitness as prescribed by the regulations that is duly completed and signed by the dealer.

Sale by  
dealer of  
vehicle for  
which  
certificate  
cannot be  
given

(2) When a dealer in used motor vehicles sells a used motor vehicle that cannot be certified as mechanically fit as provided in subsection 1, he shall forward to the Department the notice required under subsection 1 of section 9 together with the number plates and permit issued with respect to such motor vehicle.

(3) The Department shall not issue a permit or number plates to any person upon an application,

Certificate to be produced on transfer of used motor vehicle

(a) except as provided in subsection 4 to transfer a used motor vehicle; or

(b) to register a used motor vehicle in Ontario that is registered in another jurisdiction,

unless there is produced a valid certificate of mechanical fitness respecting such vehicle as prescribed by the regulations that is given by a dealer under subsection 1 or that is duly completed and signed by the holder of a subsisting certificate of qualification as a motor mechanic under *The Apprenticeship and Tradesmen's Qualification Act*.

R.S.O. 1970, c. 24

(4) Subsection 3 does not apply to a commercial motor vehicle currently registered in another jurisdiction and owned by a person who does not reside in Ontario.

Application of subsection 3 to commercial motor vehicles

(5) Where a person applies for the transfer of a used motor vehicle and does not produce a valid certificate of mechanical fitness respecting such vehicle as required by subsection 3, he shall forward to the Department the notice required under subsection 2 of section 9 together with the number plates and permit issued with respect to such motor vehicle.

Where certificate not produced

(6) The Department, upon receipt of the notice together with the number plates and permit under subsection 2 or 5 shall issue with respect to such motor vehicle a permit marked "unfit motor vehicle" and number plates shall not be issued under Part II for such motor vehicle until a valid certificate of mechanical fitness as required by subsection 3 is produced for such motor vehicle.

Issue of permit when certificate not produced

(7) Subsections 1, 2, 3 and 5 do not apply to the sale or transfer of a used motor vehicle to a dealer in used motor vehicles.

Application to dealers

(8) Subsection 2 of section 2 of *The Motor Vehicle Accident Claims Act* does not apply upon the issuance or transfer of a permit where such permit is marked "unfit motor vehicle" but does apply upon the issuance by the Department of number plates for such motor vehicle.

Application of R.S.O. 1970 c. 281, s. 2, subs. 2, to issuance of unfit motor vehicle permit

(9) Every dealer who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$300.

Penalty for contravention of subsection 1 or 2 by dealer

(10) Every person who makes a false statement in a certificate of mechanical fitness is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$300.

Penalty for false statement in certificate

(11) The Lieutenant Governor in Council may make regulations,

Regulations re certificates of mechanical fitness

(a) prescribing the form and content of certificates of mechanical fitness;



- (b) prescribing inspection procedures, inspection requirements and performance standards of those items to be inspected under a certificate of mechanical fitness;
- (c) prescribing the term of validity of a certificate of mechanical fitness. 1968, c. 50, s. 10.

Regulations  
re  
accessories  
and  
ornaments

**59.** The Lieutenant Governor in Council may make regulations,

- (a) requiring the use of any accessory, or any type or class thereof, on vehicles, regulating the use thereof and prescribing the specifications thereof;
- (b) prohibiting the use on vehicles of any accessory or ornament, or any type or class thereof;
- (c) prohibiting the sale or offering for sale of any accessory or ornament, or any type or class thereof, that is designed for use on vehicles;
- (d) designating an organization to test and mark its approval of any accessory designated by the regulations, and prohibiting the installation, sale or purchase of any designated accessory that is not marked as approved by the testing organization. R.S.O. 1960, c. 172, s. 50; 1962-63, c. 56, s. 9.

Safety  
devices  
on vehicles

**60.—(1)** The Lieutenant Governor in Council may make regulations,

- (a) requiring the use or incorporation of any device, in or on any vehicle, that may affect the safe operation of the vehicle on the highway or that may reduce or prevent injury to persons in a vehicle on a highway or to persons using the highway, and prescribing the specifications thereof;
- (b) designating devices and designating an organization to test and mark its approval of any device so designated, and prohibiting the incorporation or use in or on a vehicle of any device so designated that is not marked as approved by the testing organization. 1966, c. 64, s. 10.

Codes

(2) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, and may require compliance with any code that is so adopted. 1968, c. 50, s. 11.

Penalty

(3) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. 1968-69, c. 45, s. 35.

**61.**—(1) Every commercial motor vehicle shall have attached to or painted on both sides of the vehicle in a clearly visible position a sign showing the name of the owner, but the Department may by regulation designate any vehicle or classes of vehicles to which this subsection does not apply.

Name of owner on commercial vehicles

(2) Every commercial motor vehicle and every trailer shall have securely attached to the back thereof, within six inches of the left side of the body in such a position as to reflect the light from the headlights of a vehicle approaching from the rear, a red reflector approved by the Department. R.S.O. 1960, c. 172, s. 51 (1, 2).

Reflector

(3) No person shall sell, offer or expose for sale a new commercial motor vehicle or trailer manufactured after the 1st day of January, 1966, other than a truck tractor, unless,

Lamps and reflectors required on rear of new commercial motor vehicles and trailers

- (a) there is affixed to each side of the rear thereof in a conspicuous position a lamp, which when lighted shall display a red light only, which shall be clearly visible for a distance of at least 500 feet from the rear of the vehicle; and
- (b) there is affixed to each side of the rear thereof and placed in such a position as to reflect the light from the headlamps of a motor vehicle approaching from the rear a red reflector approved by the Department. 1965, c. 46, s. 8.

(4) Every road-building machine when on a highway shall have attached to or painted on both sides of the machine in a clearly visible position a sign showing the name and address of the owner. R.S.O. 1960, c. 172, s. 51 (3).

Name and address of owner on road-building machine

(5) Every person who contravenes any of the provisions of subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. 1968-69, c. 45, s. 36.

Penalty

**62.**—(1) No person shall ride on or operate a motorcycle on a highway unless he is wearing a helmet that complies with the regulations.

Motorcycle riders to wear helmets

(2) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the standards and specifications of helmets referred to in subsection 1;
- (b) providing for and requiring the identification and marking of such helmets.

(3) Any regulation may adopt by reference in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, and may require compliance with any code that is so adopted. 1968, c. 50, s. 12.

Codes

Sale of vehicles that do not conform to federal standards prohibited

**63.**—(1) No person who deals in motor vehicles shall sell or offer to sell a motor vehicle manufactured after the date this section comes into force that does not conform to the standards required under the *Motor Vehicle Safety Act* (Canada), and bears the National Safety Mark referred to therein. 1970, c. 74, s. 2.

Commencement of subs. 1

(2) Subsection 1 does not come into force until a day to be named by the Lieutenant Governor by his proclamation. 1970, c. 74, s. 10 (5).

PART VI

WEIGHT, LOAD AND SIZE

Interpretation

**64.**—(1) In this section,

- (a) “Class A Highway” means a highway designated as such by the Minister;
- (b) “Class B Highway” means a highway not designated by the Minister as a “Class A Highway”;
- (c) “pole-trailer” means a trailer attached to a towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly-shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections. R.S.O. 1960, c. 172, s. 52 (1); 1960-61, c. 34, s. 6 (1).

Restriction on weight of vehicle and load on Class A Highway

(2) Unless a special permit has been issued pursuant to section 65, no vehicle having a gross weight in excess of the following shall be moved upon wheels, rollers or otherwise over or upon a Class A Highway:

As to weight of other vehicles

- 1. The gross weight of a vehicle except as otherwise provided in this Part shall not exceed 28,000 pounds and the weight upon one axle shall not exceed 18,000 pounds, and if axles are spaced less than eight feet apart the weight on one axle shall not exceed 14,000 pounds.

As to weight of trailer

- 2. The gross weight of a trailer, other than a semi-trailer or pole-trailer, with two axles shall not exceed 32,000 pounds and the weight upon one axle shall not exceed 18,000 pounds, and if axles are spaced less than eight feet apart the weight on one axle shall not exceed 14,000 pounds.

As to weight upon three axles

- 3. The gross weight of a vehicle with three axles so designed that under any loading conditions the ratio of the weight on the middle axle to the weight on the rear axle remains constant, except a semi-trailer with three axles, shall not exceed 42,000 pounds and the weight on one axle shall not exceed 16,000 pounds.

4. Notwithstanding paragraph 3, the gross weight of a combination of vehicles consisting of a motor vehicle with three axles and semi-trailer with three axles shall not exceed 80,000 pounds. As to weight of three-axle motor vehicle with semi-trailer attached
5. When a conversion unit consisting of a single axle designed to convert a two-axle vehicle into a three-axle vehicle as described in paragraph 3 is used with or attached to a two-axle vehicle, the gross weight of such converted two-axle vehicle shall not exceed 42,000 pounds. As to weight of conversion unit and two-axle vehicle
6. The gross weight of a vehicle equipped wholly or in part with non-pneumatic tires shall not exceed 16,000 pounds and the weight upon one axle shall not exceed 12,000 pounds. As to weight on non-pneumatic tires
7. The gross weight of a semi-trailer with two axles or a pole-trailer with two axles so designed that under any loading conditions the weight on both axles remains constant shall not exceed 32,000 pounds. As to weight of two-axle semi-trailers, etc.
8. The gross weight of a semi-trailer with three axles or a pole-trailer with three axles so designed that under any loading conditions the weight on the three axles remains constant shall not exceed 42,000 pounds. R.S.O. 1960, c. 172, s. 52 (2); 1960-61, c. 34, s. 6 (2-5); 1966, c. 64, s. 11 (1); 1970, c. 74, s. 3 (1). As to weight of three-axle semi-trailers, etc.

(3) Unless a special permit has been issued pursuant to section 65, no vehicle having a gross weight in excess of the following shall be moved upon wheels, rollers or otherwise over or upon a Class B Highway:

1. The gross weight of a vehicle shall not exceed 22,000 pounds and the weight upon one axle shall not exceed 16,000 pounds, and if axles are spaced less than eight feet apart the weight on one axle shall not exceed 10,000 pounds. As to weight of vehicle and load

(4) No vehicle, object or contrivance for moving loads that is equipped with tires of less than six inches in width shall be operated or moved upon or over any highway, the weight of which, or the gross weight of which, exceeds 500 pounds upon any inch in width of tire, roller, wheel or other object, and no vehicle equipped with tires of six inches or more in width, the weight or gross weight of which exceeds 600 pounds upon any inch in width of the tire, shall be so operated without first obtaining a permit as provided by section 65. Restrictions as to weight on tires, etc.

(5) The Lieutenant Governor in Council may make regulations prescribing the minimum width of tires with which any vehicle operated upon a highway shall be equipped. Width of tires



How width  
ascertained

(6) For the purpose of this section, the width of solid rubber or pneumatic tires shall be as stamped thereon by the manufacturer and approved by the Department. R.S.O. 1960, c. 172, s. 52 (3-6).

Penalty

(7) Every person who contravenes any of the provisions of subsection 2, 3 or 4 is guilty of an offence and on summary conviction is liable to a fine of,

- (a) 50 cents per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is less than 5,000 pounds;
- (b) \$1 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 5,000 pounds or more but is less than 10,000 pounds;
- (c) \$2 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 10,000 pounds or more but is less than 15,000 pounds;
- (d) \$3 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 15,000 pounds or more but is less than 20,000 pounds;
- (e) \$4 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 20,000 pounds or more but is less than 30,000 pounds;
- (f) \$5 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 30,000 pounds or more. 1968-69, c. 45, s. 37.

Limiting  
weight of  
vehicle on  
bridge

(8) The municipal corporation or other authority having jurisdiction over a bridge may by by-law approved by the Department make regulations limiting the gross weight of any vehicle or combination of vehicles or any class thereof passing over such bridge and notice of the limit of the weight fixed by such regulation, legibly printed, shall be posted up in a conspicuous place at each end of the bridge.

Weight of  
vehicles  
passing  
over bridge  
regulations

(9) The Lieutenant Governor in Council may make regulations limiting the gross weight of any vehicle or combination of vehicles or any class thereof passing over a bridge forming part of a provincial highway or a highway in territory without municipal organization and the requirements of subsection 8 with respect to the posting up of notice apply thereto. R.S.O. 1960, c. 172, s. 52 (8, 9).

Permits

**65.**—(1) The municipal corporation or other authority having jurisdiction over the highway may, upon application in writing, grant a permit for the moving of heavy vehicles, loads, objects or structures in excess of the limits prescribed by section 64 or 70 or Part VII. R.S.O. 1960, c. 172, s. 53 (1); 1970, c. 74, s. 4 (1).

(2) Such permit may be general or may limit the time and the particular highway that may be used and may contain conditions relating to the protection of persons and property from injury or damage and the municipal corporation or other authority may require a bond sufficient to cover the cost of repairing any possible damage to the highway. 1962-63, c. 56, s. 11.

Permits,  
general or  
limited

(3) The council of any municipality may, by by-law, provide that such permit may be issued by any officer of the corporation named therein.

Who may  
issue

(4) In the case of a vehicle for which a permit is required under this section in order to pass over a highway or highways under the jurisdiction of two or more municipalities or other authorities, the permit so to do may be issued by the Department, which permit is in lieu of the several permits to be otherwise obtained from the municipal corporations or other authorities, and the permit may limit the time and the particular highway or highways that may be used, and may contain any special conditions or provisions that may be considered necessary to protect such highways from damage, and the Department may require a bond sufficient to cover the cost of repairing such possible damage to the highway.

Issue of  
permit by  
Depart-  
ment

(5) The owner, driver, operator or mover of any such vehicle, object or contrivance who has obtained the permit mentioned in this section is nevertheless responsible for all damages that may be caused to the highway by reason of the driving, operating or moving of any such vehicle, object or contrivance. R.S.O. 1960, c. 172, s. 53 (3-5).

Responsi-  
bility for  
damages  
caused to  
highway

(6) Every person to whom a permit has been issued under this section who operates or permits the operating of a vehicle or combination of vehicles contrary to any of the conditions of such permit is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and in addition a fine shall be imposed as if he had also been convicted of an offence under subsection 7 of section 64 in respect of any gross weight in excess of the gross weight permitted under that section or clause *a* of section 73 in respect of any excess axle unit weight as if no special permit had been issued. 1970, c. 74, s. 4 (2).

Penalty

**66.**—(1) Subject to subsection 1 of section 16 of *The Public Vehicles Act*, no motor vehicle, combination of vehicles or trailer having a permit issued under this Act, the fee for which is based upon the weight of the vehicle or combination of vehicles and load, shall at any time when on a highway carry a load in excess of that for which the permit was issued as stated upon the permit, and for which the fee therefor was estimated. R.S.O. 1960, c. 172, s. 54 (1); 1967, c. 35, s. 8.

Prohibition  
as to carry-  
ing load in  
excess of  
permit  
R.S.O. 1970,  
c. 392

(2) The permit issued for a commercial motor vehicle and for every trailer drawn by it, or a true copy thereof, shall, whenever such vehicle is on a highway, be carried by the driver thereof or

Production  
of permit

placed in some readily accessible position in the vehicle and shall be produced when demanded by a constable or an officer appointed for carrying out the provisions of this Act or *The Public Commercial Vehicles Act*.

R.S.O. 1970,  
c. 375

Surrender  
of permit

(3) Subsection 2 does not apply when a permit has been surrendered for transfer of registration or when such surrender is required by law.

Weight of  
load during  
March and  
April

(4) During the months of March and April, commercial motor vehicles and trailers, other than public vehicles, operated over or upon any portion of the King's Highway to which the provisions of this subsection are declared to be applicable by the Lieutenant Governor in Council, or upon any other highway not within a city or separated town, shall not be loaded in excess of the following limits without obtaining a permit as provided by section 65:

1. A vehicle equipped wholly or in part with solid tires shall not be loaded in excess of one-half the carrying capacity as registered with the Department.
2. A vehicle equipped wholly with pneumatic tires and having a carrying capacity registered with the Department of three tons and not more than six tons shall not be loaded in excess of three tons.
3. A vehicle equipped wholly with pneumatic tires and having a registered carrying capacity in excess of six tons shall not be loaded in excess of one-half the capacity registered with the Department.

Weight of  
load during  
March and  
April

(5) During the months of March and April, a vehicle, other than a motor vehicle or trailer, operated over or upon any portion of the King's Highway to which the provisions of this subsection are declared to be applicable by the Lieutenant Governor in Council, or upon any other highway not within a city or separated town, and having a carrying capacity exceeding one ton, shall not be loaded in excess of 250 pounds upon any inch in width of tire without obtaining a permit as provided by section 65. R.S.O. 1960, c. 172, s. 54 (2-5).

Penalty

(6) Every person who contravenes any of the provisions of subsection 1, 4 or 5 is guilty of an offence and on summary conviction is liable to a fine as if he had been convicted under subsection 7 of section 64 and in addition, if the conviction is for a contravention under subsection 1, the Registrar may suspend the registration permit of the vehicle or vehicles involved and such suspension shall continue until the vehicle has been reregistered at the maximum gross weight allowable and the additional registration fee has been paid. 1968-69, c. 45, s. 39.

Application  
to cities and  
separated  
towns

(7) The council of a city or separated town may, by by-law, declare the provisions of subsections 4, 5 and 6 to be in force in respect of highways within the city or separated town.

(8) The municipal corporation or other authority having jurisdiction over any highway may declare the provisions of subsections 4, 5 and 6 to extend and apply to highways under its jurisdiction during any period of the year or that the provisions of subsections 4 and 5 do not apply to any or all highways under its jurisdiction; but a by-law of a municipality passed under this subsection does not take effect until it has received the approval of the Minister. R.S.O. 1960, c. 172, s. 54 (7, 8).

Extension  
of period by  
municipality  
or other  
authority

(9) In the case of highways under the jurisdiction of the Department of Highways and highways in territory without municipal organization, the Lieutenant Governor in Council may, upon the recommendation of the Minister, declare the provisions of subsections 4, 5 and 6 to extend and apply during any period of the year. R.S.O. 1960, c. 172, s. 54 (8), *amended*.

Extension  
of period by  
Lieutenant  
Governor  
in Council

**67.**—(1) Any constable or any officer appointed for carrying out the provisions of this Act, having reason to believe that the weight of a vehicle and load is in excess of that permitted by this Act or in excess of that authorized under the permit issued for the vehicle, may weigh the same either by means of portable or stationary scales and may require that such vehicle be driven to the nearest scales if they are within a distance of ten miles and, where it is found that the vehicle is carrying an excessive load, the constable or officer may require the driver to forthwith remove so much of the load as is necessary to bring it within the weight so permitted or authorized. R.S.O. 1960, c. 172, s. 55 (1).

Power of  
officer to  
have load  
weighed

(2) Every driver who, when so required to proceed to a weighing machine, refuses or fails to do so is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100. 1968-69, c. 45, s. 40 (1).

Penalty  
on driver

(3) When a weighing machine capable of weighing a vehicle is distant more than ten miles from the vehicle, the driver of the vehicle, in lieu of proceeding to a weighing machine, shall produce forthwith an inventory showing the true weight of the vehicle and the goods or load thereon, verified in writing by the owner of the vehicle or by a person authorized in writing by the owner to make such verification.

Production  
of inventory  
showing  
weight of  
vehicle  
and load

(4) In lieu of proceeding to a weighing machine, the weight of the load may be determined by a portable weighing device provided by the officer, and it is the duty of the driver of the vehicle to facilitate the weighing of the vehicle and load by such device. R.S.O. 1960, c. 172, s. 55 (3, 4).

Weighing  
device

(5) Every person who contravenes any of the provisions of subsection 3 or 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100. 1968-69, c. 45, s. 40 (2).

Penalty



Inter-  
pre-  
ta-  
tion

(6) For the purposes of this section,

- (a) a combination of vehicles consisting of a motor vehicle and semi-trailer shall be deemed to be one vehicle; and
- (b) "semi-trailer" means any trailer that is so designed that, when operated, the forward part of its body or chassis rests upon the body or chassis of the towing vehicle. R.S.O. 1960, c. 172, s. 55 (6).

Over-  
hanging  
loads

**68.**—(1) Every vehicle carrying a load that overhangs the rear of the vehicle to the extent of five feet or more shall display upon such overhanging load at the extreme rear end thereof at any time from one-half hour after sunset to one-half hour before sunrise or at any other time when there is insufficient light or unfavourable atmospheric conditions a red light, and at all other times a red flag or a red wooden or metal sign sufficient to indicate the projection of such load. R.S.O. 1960, c. 172, s. 56 (1); 1966, c. 64, s. 12 (1).

Commercial  
vehicle,  
etc., how  
to be  
loaded

(2) No person shall operate or permit to be operated upon a highway any commercial motor vehicle or trailer unless the load that such vehicle or trailer is carrying is firmly bound, sufficiently covered, or otherwise secured or loaded, in such manner that no portion of the load may become dislodged or fall from the commercial vehicle or trailer. 1966, c. 64, s. 12 (2).

Penalty

(3) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 and in addition his licence or permit may be suspended for a period of not more than sixty days. 1968-69, c. 45, s. 41.

Regulations  
re carriage  
of explo-  
sives, etc.

**69.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) classifying and defining explosives and dangerous materials;
- (b) regulating or prohibiting the transportation of explosives and dangerous materials or any class thereof by a vehicle on a highway;
- (c) regulating the preparation and packaging of explosives and dangerous materials or any class thereof to be transported by a vehicle on a highway;
- (d) requiring the labelling of packages and containers of explosives and dangerous materials or any class thereof and prescribing the labels to be attached to such packages and containers. 1961-62, c. 52, s. 10.

Penalty

(2) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not

more than \$500 or to imprisonment for a term of not more than three months, or to both. 1968-69, c. 45, s. 42.

**70.**—(1) No vehicle, including load or contents, shall have a greater width than 102 inches, except traction engines or threshing machines which may have a total width of 110 inches, and except loads of loose fodder and except motor vehicles and road-building machines while being used for the removal of snow from a highway. R.S.O. 1960, c. 172, s. 58 (1); 1961-62, c. 52, s. 11 (1); 1968, c. 50, s. 14.

Width of vehicle

(2) Where a commercial motor vehicle is equipped with one or more rear vision mirrors that extend in whole or in part beyond either side of the vehicle or one or more lamps, required by this Act, that extend in whole or in part beyond either side of the vehicle, the amount of such extension shall not be included in determining the maximum width of the vehicle under subsection 1. 1962-63, c. 56, s. 12, *part*.

Rear vision mirrors and lamps not included in width

(3) No vehicle, other than a public vehicle or a semi-trailer as defined in clause *b* of subsection 6 of section 67, including load or contents, shall exceed the length of 35 feet, and no combination of vehicles, including load or contents, coupled together shall exceed the total length of 65 feet. 1962-63, c. 56, s. 12, *part*; 1968-69, c. 45, s. 43 (1).

Length of vehicle or combination

(4) Subject to subsection 5, no semi-trailer as defined in clause *b* of subsection 6 of section 67, other than a semi-trailer designed for the carriage of vehicles, shall exceed the length of 45 feet.

Semi-trailer

(5) Except in the case of a combination of vehicles under subsection 3, any extension in the length of a semi-trailer caused by auxiliary equipment or machinery that is not designed for the transportation of goods shall not be included in determining the length of a semi-trailer under subsection 4.

Determination of length of semi-trailer

(6) The council of a city may by by-law prohibit the operation of a combination of vehicles having a total length, including load or contents, in excess of fifty feet on any highway or a portion thereof under its jurisdiction designated in the by-law. 1962-63, c. 56, s. 12, *part*.

Restricting length of combinations of vehicles in cities

(7) No public vehicle, including load or contents, shall exceed the length of 40 feet. R.S.O. 1960, c. 172, s. 58 (3); 1961-62, c. 52, s. 11 (4).

Length of public vehicle

(8) No vehicle, including load or contents, shall have a greater height than 13 feet 6 inches. R.S.O. 1960, c. 172, s. 58 (4).

Height of vehicle

(9) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 and in addition his permit may be suspended for not more than six months. 1968-69, c. 45, s. 43 (2).

Penalty

PART VII

AXLE WEIGHTS

Interpre-  
tation

- 71.**—(1) In this Part,
- (a) “axle” means an assembly of two or more wheels whose centres are in one transverse vertical plane;
  - (b) “axle group” means an assemblage of any two or more consecutive axle units considered together in determining their combined load effect;
  - (c) “axle group weight” means the total weight transmitted to the highway by an axle group;
  - (d) “axle unit” means any single axle, dual axle or triple axle;
  - (e) “axle unit weight” means the total weight transmitted to the highway by an axle unit;
  - (f) “Class A Highway” means a highway designated as such by the Minister;
  - (g) “Class B Highway” means a highway not designated by the Minister as a Class A Highway;
  - (h) “dual axle” means any two consecutive axles whose centres are more than 40 inches apart and,
    - (i) are articulated from a common attachment to the vehicle, or
    - (ii) designed to equalize the load between the two axles;
  - (i) “single axle” means one or more axles whose centres are included between two parallel transverse vertical planes 40 inches apart;
  - (j) “triple axle” means any three consecutive axles, whose consecutive centres are more than 40 inches apart and,
    - (i) are articulated from an attachment to the vehicle common to the consecutive axles, or
    - (ii) designed to equalize the load between the three axles. 1970, c. 74, s. 9, *part*; 1970, c. 112, s. 1.

Spacing  
between  
axles

(2) The spacing between axles is the shortest distance between the centre of rotation of one axle and the centre of rotation of the other.

Idem

(3) For the purposes of Table 2, the axle spacing is the distance measured between the outer axles forming an axle unit. 1970, c. 74, s. 9, *part*.

Restrictions  
as to  
weight  
on tires

**72.**—(1) No vehicle, object or contrivance for moving loads that is equipped with tires of less than six inches in width shall be operated or moved upon or over any highway the weight of which

or the gross weight of which exceeds 500 pounds upon any inch in width of tire, roller, wheel or other object, and no vehicle equipped with tires of six inches or more in width, the weight or gross weight of which exceeds 600 pounds upon any inch in width of the tire, shall be so operated without first obtaining a permit as provided by section 65.

(2) For the purpose of this section, the width of solid rubber or pneumatic tires shall be as stamped thereon by the manufacturer. 1970, c. 74, s. 9, *part*.  
How width ascertained

73. Subject to the provisions of section 65,  
Restriction on weight of axles prescribed by the regulations on Class A Highway
- (a) no vehicle or combination of vehicles shall be operated on a Class A Highway where any axle unit weight or axle group weight exceeds that prescribed in the regulations for such vehicle or combination of vehicles or as permitted by temporary authority issued pursuant to clause b;  
temporary authority

(b) where the regulations do not prescribe the axle unit weights and axle group weights in respect of a particular vehicle or combination of vehicles, the owner may apply to the Department for a temporary authority permitting the operation of the vehicle or combination of vehicles on a highway in accordance with section 74;  
prescribed by temporary authority

(c) no vehicle or combination of vehicles shall be operated on a highway where the axle spacings of such vehicle or combination of vehicles are not prescribed in the regulations and the owner is not the holder of the temporary authority issued pursuant to clause b; and  
production of temporary authority

(d) the temporary authority issued pursuant to clause b, or a true copy thereof, shall whenever the vehicle or combination of vehicles is on a highway be carried by the driver thereof or placed in some readily accessible position and shall be produced when demanded by a constable or an officer appointed for carrying out the provisions of this Act or *The Public Commercial Vehicles Act*. 1970, c. 74, s. 9, *part*.  
R.S.O. 1970, c. 375

- 74.—(1) The maximum allowable axle unit weight shall be,  
Maximum allowable axle unit weights
- (a) for a single axle, 20,000 pounds;

(b) for a dual axle, that weight shown in Column 2 opposite the corresponding axle spacing shown in Column 1 of Table 1;

(c) for a triple axle, that weight shown in Column 2 opposite the corresponding axle spacing shown in Column 1 of Table 2.

(2) The axle unit weights and axle group weights used in respect of a temporary authority issued under clause b of section  
Application of formula



73 shall be based on the lesser of the maximum axle unit weight referred to in subsection 1 and that derived from the application of the following formula:

$$W_m = 20 + 2.07 B_m - 0.0071 B_m^2.$$

where:  $B_m = Kb$

$W_m$  is the axle group weight limit

$B_m$  is the equivalent base length of the axle group

$b$  is the base length, being the distance between the extreme axle of an axle group

$K$  is a parameter as defined by the equation

$$K = \frac{4 \sum_{i=1}^N P_i |x_i|}{b \sum_{i=1}^N P_i} - \frac{2(N-1)}{N} \times \left( \frac{\sum_{i=1}^N P_i x_i}{b \sum_{i=1}^N P_i} \right)^2$$

where:

$N$  is the number of axles in an axle group (count 2 for dual axle and 3 for a triple axle)

$P_i$  is the weight of any individual axle

$P_m$  is the weight of the axle closest to the centre of gravity of the axle group load

$x_i$  is the distance of an axle load  $P_i$  from the axle load  $P_m$ . This distance is to be taken as positive when measured right of  $P_m$ , and negative when measured left of  $P_m$ .

$|x_i|$  is the absolute value of the distance  $x_i$ .

1970, c. 74, s. 9, *part*.

Raw forest products allowance during freeze-up

**75.**—(1) During freeze-up the maximum weight for a vehicle or combination of vehicles while carrying raw forest products only shall be 110 per cent of that weight for which the vehicle or combination of vehicles is registered provided no axle unit weight exceeds by more than 10 per cent that weight prescribed in the regulations or temporary authority issued pursuant to clause *b* of section 73 for such vehicle or combination of vehicles.

Definition

(2) For the purpose of this section, “freeze-up” shall be such period of time as designated by the Minister.

Restriction

(3) No vehicle or combination of vehicles shall be operated on a highway in excess of the weight limits authorized in subsection 1. 1970, c. 74, s. 9, *part*.

**76.** Unless a special permit has been issued pursuant to section 65, no vehicle or combination of vehicles shall be operated on a Class B Highway where the weight upon one axle exceeds 18,000 pounds and, if the axles are spaced less than eight feet apart, the weight on one axle shall not exceed 12,000 pounds. 1970, c. 74, s. 9, *part*.

Restriction  
as to  
Class B  
Highway

**77.**—(1) No vehicle or combination of vehicles having a permit issued under this Act, the fee for which is based upon the weight of the vehicle or combination of vehicles and load, shall at any time when on a highway carry a load in excess of that for which the permit was issued upon the permit and for which the fee therefor was estimated.

Prohibition  
as to  
carrying  
load in  
excess of  
permit

(2) The permit issued for a commercial motor vehicle and for every trailer drawn by it, or a true copy thereof, shall, whenever such vehicle is on a highway, be carried by the driver thereof or placed in some readily accessible position in the vehicle and shall be produced when demanded by a constable or an officer appointed for carrying out the provisions of this Act or *The Public Commercial Vehicles Act*.

Production  
of permit

R.S.O. 1970,  
c. 375

(3) Subsection 2 does not apply when a permit has been surrendered for transfer of registration or when such surrender is required by law.

Exception

(4) During the months of March and April, commercial motor vehicles and trailers, other than public vehicles operated over or upon any portion of the King's Highway to which the provisions of this subsection are declared to be applicable by the Lieutenant Governor in Council, or upon any other highway not within a city or separated town, shall not be loaded so that any axle transmits to the road a weight in excess of 10,000 pounds without obtaining a permit as provided by section 65.

Weight of  
load during  
March and  
April

(5) During the months of March and April, a vehicle, other than a motor vehicle or trailer, operated over or upon any portion of the King's Highway to which the provisions of this subsection are declared to be applicable by the Lieutenant Governor in Council or upon any other highway not within a city or separated town and having a carrying capacity exceeding one ton shall not be loaded in excess of 250 pounds upon any inch in width of tire without obtaining a permit as provided by section 65.

Idem

(6) Every person who contravenes any of the provisions of subsection 1, 4 or 5 is guilty of an offence and on summary conviction is liable to a fine as if he had been convicted under subsection 1 of section 80 and in addition, if the conviction is for a contravention under subsection 1, the Registrar may suspend the registration permit of the vehicle or vehicles involved and such suspension shall continue until the vehicle has been reregistered at the maximum gross weight allowable and the additional registration fee has been paid.

Penalty

Application  
to city or  
separated  
town

(7) The council of a city or separated town may, by by-law, declare the provisions of subsections 4, 5 and 6 to be in force in respect of highways within the city or separated town.

Extension of  
period by  
municipality

(8) The municipal corporation or other authority having jurisdiction over any highway may declare the provisions of subsections 4, 5 and 6 to extend and apply to highways under its jurisdiction during any period of the year or that the provisions of subsections 4 and 5 do not apply to any or all highways under its jurisdiction, but a by-law of a municipality passed under this subsection does not take effect until it has received the approval of the Minister.

Extension of  
period on  
King's  
Highway,  
etc.

(9) In the case of the King's Highway and highways in territory without municipal organization, the Lieutenant Governor in Council may declare the provisions of subsections 4, 5 and 6 to extend and apply during any period of the year. 1970, c. 74, s. 9, *part*.

Power of  
officer to  
have load  
weighed

**78.**—(1) Any constable or any officer appointed for carrying out the provisions of this Act, having reasons to believe that the weight of a vehicle and load is in excess of that permitted by this Act or in excess of that authorized under the permit issued for the vehicle, may weight the same either by means of portable or stationary scales and may require that such vehicle be driven to the nearest scale if they are within a distance of ten miles and, where it is found that the vehicle is carrying an excessive load, the constable or officer may require the driver to forthwith remove so much of the load as is necessary to bring it within the weight so permitted or authorized.

Measure of  
axle spacing

(2) To determine whether the weight of the vehicle and load is in excess of that permitted by this Act or in excess of that authorized under the permit issued for the vehicle, the constable or officer appointed for carrying out the provisions of this Act may conduct such examination as is necessary to ascertain the distance between the axles of the vehicle or combination of vehicles.

Penalty

(3) Every driver who, when so required to proceed to a weighing machine, refuses or fails to do so is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

Production  
of inventory

(4) When a weighing machine capable of weighing a vehicle is distant more than ten miles from the vehicle, the driver of the vehicle, in lieu of proceeding to a weighing machine, shall produce forthwith an inventory showing the true weight of the vehicle and the goods or load thereon, verified in writing by the owner of the vehicle or by a person authorized in writing by the owner to make such verification.

(5) Every person who contravenes any of the provisions of subsection 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100. 1970, c. 74, s. 9, *part*. Penalty

**79.** The Lieutenant Governor in Council may make regulations, Regulations  
tions,

- (a) prescribing by charts and tables the weights in accordance with the provisions of section 74 that may be transmitted to the highway by an axle unit, axle group, vehicle or combination of vehicles;
- (b) prescribing tolerances with respect to axle unit weights;
- (c) prescribing markings to be placed on vehicles respecting vehicle registration and weights. 1970, c. 74, s. 9, *part*.

**80.—(1)** Every person who contravenes any of the provisions of subsection 1 of section 72, clause *a* of section 73, subsection 3 of section 75 or section 76 is guilty of an offence and on summary conviction is liable to a fine of, Penalty

- (a) 50 cents per hundredweight or part thereof of the weight permitted by this Part and the regulations thereunder where the overweight is less than 5,000 pounds;
- (b) \$1 per hundredweight or part thereof of the weight permitted by this Part and the regulations thereunder where the overweight is 5,000 pounds or more but is less than 10,000 pounds;
- (c) \$2 per hundredweight or part thereof of the weight permitted by this Part and the regulations thereunder where the overweight is 10,000 pounds or more but is less than 15,000 pounds;
- (d) \$3 per hundredweight or part thereof of the weight permitted by this Part and the regulations thereunder where the overweight is 15,000 pounds or more but is less than 20,000 pounds;
- (e) \$4 per hundredweight or part thereof of the weight permitted by this Part and the regulations thereunder where the overweight is 20,000 pounds or more but is less than 30,000 pounds; and
- (f) \$5 per hundredweight or part thereof of the weight permitted by this Part and the regulations thereunder where the overweight is 30,000 pounds or more.

(2) Every person who contravenes clause *c* of section 73 is Idem  
guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.



Idem                   (3) Every person who contravenes clause *d* of section 73 is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$50.   1970, c. 74, s. 9, *part*.

Application of Part VI or VII after March 1st, 1971                   **81.**—(1) Subject to subsection 2, on and after the 1st day of March, 1971, a vehicle or combination of vehicles may be operated on a highway only in accordance with and subject to the provisions of this Part, sections 65, 68, 69 and 70 or of Part VI.   1970, c. 112, s. 2.

Part VI not to apply after March 31st, 1976                   (2) A vehicle or combination of vehicles may be operated in accordance with and subject to the provisions of Part VI only until and including the 31st day of March, 1976.   1970, c. 74, s. 9, *part*.

TABLE 1

MAXIMUM ALLOWABLE WEIGHT FOR DUAL AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing in Inches	Maximum Allowable Weight in Pounds
40 or less	20,000
More than 40 and less than 48	32,000
48 " " " 51	35,000
51 " " " 54	35,500
54 " " " 57	36,000
57 " " " 60	36,500
60 " " " 63	37,500
63 " " " 66	38,000
66 " " " 69	38,500
69 " " " 72	39,000
72 or more	40,000

1970, c. 112, s. 3, *part*.

TABLE 2

MAXIMUM ALLOWABLE WEIGHT FOR TRIPLE AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing in Inches	Maximum Allowable Weight in Pounds
80 or less	35,000
More than 80 and less than 96	40,000
96 " " " 111	44,000
111 " " " 114	44,500
114 " " " 117	45,000
117 " " " 120	45,500
120 " " " 123	46,000
123 " " " 126	46,500
126 " " " 129	47,500
129 " " " 132	48,000
132 " " " 135	49,000
135 " " " 138	49,500
138 " " " 141	50,000
141 " " " 144	50,500
144 " " " 147	51,000
147 " " " 150	51,500
150 " " " 153	52,500
153 " " " 156	53,000
156 " " " 159	54,000
159 " " " 162	54,500
162 " " " 165	55,000
165 " " " 168	55,500
168 " " " 171	56,000
171 " " " 174	56,500
174 " " " 177	57,000
177 " " " 180	57,500
180 " " " 183	58,500
183 " " " 186	59,000
186 " " " 189	59,500
189 " " " 192	59,500
192 or more	60,000

1970, c. 112, s. 3, *part.*

## PART VIII

## RATE OF SPEED

Rate of  
speed:

**82.**—(1) No person shall drive a motor vehicle at a greater rate of speed than,

- (a) 50 miles per hour,
  - (i) on a highway not within a city, town, village, police village or built-up area, or
  - (ii) on a highway designated by the Lieutenant Governor in Council as a controlled-access highway under *The Highway Improvement Act*, whether or not such highway is within a city, town, village, police village or built-up area;
- (b) subject to clause *a*, 30 miles per hour on a highway within a city, town, village, police village or built-up area;
- (c) the maximum speed posted for the driving of motor vehicles in a construction zone designated under subsection 14;
- (d) 20 miles per hour over a level railway crossing;
- (e) 15 miles per hour if equipped wholly or in part with solid tires;
- (f) the speed limit prescribed upon a highway in accordance with the provisions of subsections 2, 3, 4, 5, 6, 7, 10, 11 and 12; or
- (g) the speed limit prescribed upon a metropolitan road in accordance with section 82 of *The Municipality of Metropolitan Toronto Act*. R.S.O. 1960, c. 172, s. 59 (1); 1961-62, c. 52, s. 12 (1); 1962-63, c. 56, s. 13 (1); 1964, c. 38, s. 7 (1); 1965, c. 46, s. 10 (1, 2); 1967, c. 35, s. 9 (1).

R.S.O. 1970,  
c. 201

R.S.O. 1970,  
c. 295

decrease  
by by-law

(2) The council of a city, town or village and the trustees of a police village may by by-law prescribe a speed limit of 25 miles per hour for motor vehicles driven on any highway or portion of a highway under its jurisdiction, and the council of a township or county may by by-law prescribe a speed limit of 25 miles per hour for motor vehicles driven on highways under its jurisdiction in any built-up area within the municipality.

suburban  
districts in  
townships

(3) The council of a township having a population exceeding 60,000 may pass by-laws designating any part or parts of the township as a suburban district or districts and prescribing a speed limit of 30 miles per hour for motor vehicles driven on the highways under its jurisdiction within such district or districts subject to any by-law decreasing or increasing the speed limit under subsection 2, 4 or 6.

(4) The council of a city, town, village or township and the trustees of a police village may by by-law prescribe a lower rate of speed for motor vehicles driven in any public park or exhibition ground than is prescribed in subsection 1, but such lower rate of speed shall not be less than 15 miles per hour. R.S.O. 1960, c. 172, s. 59 (2-4).

(5) The council of a city, town or village and the trustees of a police village may by by-law prescribe a higher rate of speed for motor vehicles driven on any highway or portion of a highway under its jurisdiction than is prescribed in subsection 1, but such increased rate of speed shall not be more than 60 miles per hour. R.S.O. 1960, c. 172, s. 59 (5); 1964, c. 38, s. 7 (2).

(6) The council of a township or county may by by-law prescribe a higher rate of speed for motor vehicles driven on a highway or portion of a highway under its jurisdiction within a built-up area than is prescribed in subsection 1 or within a suburban district than is prescribed in such district for motor vehicles driven on a highway within a built-up area or suburban district, but such increased rate of speed shall not be more than 50 miles per hour. R.S.O. 1960, c. 172, s. 59 (6); 1964, c. 38, s. 7 (3).

(7) The council of a township or county may by by-law prescribe a lower or higher rate of speed for motor vehicles on a highway or portion of a highway under its jurisdiction that is not within a built-up area or suburban district than is prescribed in clause *a* of subsection 1, but such rate of speed shall not be less than 35 miles per hour or more than 60 miles per hour. 1961-62, c. 52, s. 12 (2); 1964, c. 38, s. 7 (4).

(8) No by-law passed under subsection 2, 3, 5, 6, 7 or 12 becomes effective until approved by the Department and the highways or portions thereof affected by the by-law shall be marked to comply with the regulations. R.S.O. 1960, c. 172, s. 59 (7); 1961-62, c. 52, s. 12 (3); 1962-63, c. 56, s. 13 (2).

(9) The speed limits prescribed under this Act or the regulations or any by-law passed under this Act do not apply to a motor vehicle of a municipal fire department while proceeding to a fire or answering a fire alarm call or to a motor vehicle operated by a person in the lawful performance of his duties as a police officer. R.S.O. 1960, c. 172, s. 59 (8); 1962-63, c. 56, s. 13 (3).

(10) The Lieutenant Governor in Council may make regulations prescribing a lower rate of speed than 50 miles per hour for motor vehicles driven upon a highway or any part thereof in any provincial park. R.S.O. 1960, c. 172, s. 59 (9).

(11) The Lieutenant Governor in Council may make regulations prescribing a higher or lower rate of speed than the rate of speed prescribed in this Act or any by-law for any class or classes of motor vehicles upon the King's Highway or any part thereof



whether or not the King's Highway or the part thereof is within a city, town, village, police village or built-up area, and such rate of speed may be different for any period or periods of the day or night. R.S.O. 1960, c. 172, s. 59 (10); 1965, c. 46, s. 10 (3).

in school  
zones

(12) The council of a city, town or village or the trustees of a police village may by by-law,

- (a) designate a portion of a highway under its jurisdiction that adjoins the entrance to or the exit from a school and that is within a distance of 500 feet along the highway in either direction beyond the limits of the land used for the purposes of the school; and
- (b) prescribe a rate of speed of 25 miles per hour for motor vehicles driven upon the portion of a highway so designated on days on which school is regularly held and prescribe the time between the hours of 8.00 a.m. and 5.00 p.m. at which such speed limit is effective. 1962-63, c. 56, s. 13 (4).

application  
of subs. 1

R.S.O. 1960,  
c. 295

(13) Where a by-law is passed under subsection 2, 3, 4, 5, 6, 7 or 12 or a regulation is made under subsection 10 or 11, or a by-law is passed under section 82 of *The Municipality of Metropolitan Toronto Act*, the rates of speed prescribed in subsection 1 do not apply to the highway or portion of the highway affected by the by-law or regulation. R.S.O. 1960, c. 172, s. 59 (11); 1961-62, c. 52, s. 12 (4); 1962-63, c. 56, s. 13 (5).

construc-  
tion zones

(14) The Minister may designate any part of the King's Highway as a construction zone, and every construction zone shall be marked by signs in accordance with the regulations. 1967, c. 35, s. 9 (2), *part*; 1968-69, c. 45, s. 44 (1).

speed limit  
signs in  
construction  
zones

(15) Signs posting the maximum speeds at which motor vehicles may be driven in a construction zone may be erected in accordance with the regulations by an official of the Department of Highways. 1967, c. 35, s. 9 (2), *part*.

Penalty

(16) Every person who contravenes any of the provisions of this section or any by-law or regulation made under this section is guilty of an offence and on summary conviction is liable, where the rate of speed at which the motor vehicle was driven,

- (a) is less than 10 miles per hour over the maximum speed limit, to a fine of \$2 for each mile per hour that the motor vehicle was driven over the maximum speed limit;
- (b) is 10 miles per hour or more but less than 20 miles per hour over the maximum speed limit, to a fine of \$3 for each mile per hour that the motor vehicle was driven over the maximum speed limit;
- (c) is 20 miles per hour or more but less than 30 miles per hour over the maximum speed limit, to a fine of \$4 for

each mile per hour that the motor vehicle was driven over the maximum speed limit; and

- (d) is 30 miles per hour or more over the maximum speed limit, to a fine of \$5 for each mile per hour that the motor vehicle was driven over the maximum speed limit. 1968-69, c. 45, s. 44 (2).

(17) Where a provincial judge has convicted a person for a contravention of any provision of this section and has determined that the person convicted was driving at a rate of speed of 30 or more miles per hour greater than the maximum speed limited, he may suspend the driver's licence of such person for a period of not more than 30 days. 1968, c. 50, s. 15.

Suspension  
of licence  
on  
conviction

**83.** Every person is guilty of the offence of driving carelessly who drives a vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence or permit may be suspended for a period of not more than two years. 1968-69, c. 45, s. 45.

Careless  
driving

**84.** The municipal corporation or other authority having jurisdiction over the highway and, in the case of a provincial highway or a highway in territory without municipal organization, the Lieutenant Governor in Council may make regulations limiting any vehicle passing over a bridge to a speed of not less than 5 miles per hour, and notice of the limit of speed fixed by such regulation, legibly printed, shall be posted up in a conspicuous place at each end of the bridge. R.S.O. 1960, c. 172, s. 61 (1).

Regulations  
limiting  
speed on  
bridges

**85.** No motor vehicle shall be driven on a highway at such a slow rate of speed as to impede or block the normal and reasonable movement of traffic thereon except when such slow rate of speed is necessary for safe operation having regard to all the circumstances. R.S.O. 1960, c. 172, s. 62 (1).

Unneces-  
sary slow  
driving  
prohibited

## PART IX

### RULES OF THE ROAD

**86.** Where a constable or other police officer considers it reasonably necessary,

Direction  
of traffic by  
constable

- (a) to ensure orderly movement of traffic; or
- (b) to prevent injury or damage to persons or property; or
- (c) to permit proper action in an emergency,

he may direct traffic according to his discretion, notwithstanding the provisions of this Part, and every person shall obey his directions. 1960-61, c. 34, s. 7.

Right of  
way

**87.** Subject to sections 88 and 90, a driver or operator of a vehicle approaching an intersection shall yield the right of way to a vehicle that has entered the intersection from a different highway and, when two vehicles enter an intersection from different highways at approximately the same time, the driver or operator on the left shall yield the right of way to the vehicle on the right. R.S.O. 1960, c. 172, s. 63.

Stop at  
through  
highway

**88.** The driver or operator of a vehicle or car of an electric railway,

- (a) upon approaching a stop sign at an intersection, shall bring the vehicle or car to a full stop at a clearly marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection; and
- (b) upon entering the intersection, shall yield the right of way to traffic in the intersection or approaching the intersection on another highway so closely that it constitutes an immediate hazard and having so yielded the right of way may proceed with caution and the traffic approaching the intersection on another highway shall yield the right of way to the vehicle so proceeding in the intersection. R.S.O. 1960, c. 172, s. 64.

Stop signs,  
erection  
at inter-  
sections

**89.** In addition to stop signs required at intersections on through highways,

- (a) the council of a municipality and the trustees of a police village may by by-law approved by the Department provide for the erection of stop signs at intersections on highways under its jurisdiction; and
- (b) the Lieutenant Governor in Council may by regulation designate intersections on the King's Highway at which stop signs shall be erected,

and every sign so erected shall comply with the regulations of the Department. R.S.O. 1960, c. 172, s. 65.

Yield  
right-of-  
way signs

**90.**—(1) The driver or operator of a vehicle or car of an electric railway approaching a yield right-of-way sign shall slow down to a speed reasonable for the existing conditions or shall stop if necessary as provided in clause *a* of section 88 and shall yield the right of way to traffic in the intersection or approaching on the intersecting highway so closely that it constitutes an immediate hazard and having so yielded may proceed with caution.

Approval  
of signs

(2) No yield right-of-way sign shall be erected without the approval of the Department and every sign so erected shall comply with the regulations of the Department. R.S.O. 1960, c. 172, s. 66.

**91.** The driver or operator of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right of way to all vehicles approaching on the highway. R.S.O. 1960, c. 172, s. 67.

Right of way on entering highway from private road

**92.**—(1) Subject to subsection 2, when a pedestrian crossing a roadway within a pedestrian crossover,

Pedestrian crossover, duties of driver

- (a) is upon the half of the roadway upon which a vehicle or street car is travelling; or
- (b) is upon half of the roadway and is approaching the other half of the roadway on which a vehicle or street car is approaching so closely to the pedestrian crossover as to endanger him,

the driver of such vehicle or street car shall yield the right of way to the pedestrian by slowing down or stopping if necessary.

(2) When a vehicle or street car is stopped at a pedestrian crossover, the driver of any other vehicle or street car overtaking the stopped vehicle or street car shall bring the vehicle or street car to a full stop before entering the crossover and shall yield the right of way to a pedestrian,

Where vehicle stopped at pedestrian crossover

- (a) who is within the crossover upon the half of the roadway upon which the vehicle or street car is stopped; or
- (b) who is within the crossover and is approaching such half of the roadway from the other half of the roadway so closely to the vehicle or street car that he is in danger if the vehicle or street car were to proceed.

(3) When a vehicle or street car is approaching a pedestrian crossover and is within 100 feet thereof, the driver of any other vehicle or street car approaching from the rear shall not overtake and pass such vehicle or street car.

Passing moving vehicles within 100 feet of pedestrian crossover

(4) No pedestrian shall leave the curb or other place of safety at a pedestrian crossover and walk or run into the path of a vehicle or street car that is so close that it is impracticable for the driver of the vehicle or street car to yield the right of way. 1964, c. 38, s. 8, *part*.

Duties of pedestrian

(5) The part of every municipal by-law that provides for the regulation of traffic by means of pedestrian crossovers is revoked on the day this section comes into force. 1964, c. 38, s. 8, *part*.

By-laws revoked

**93.**—(1) The driver or operator of a vehicle intending to turn to the right into an intersecting highway shall approach such intersection and turn as closely as practicable to the right curb or edge of the roadway.

Turns, right at intersections

(2) The driver or operator of a vehicle within an intersection intending to turn to the left across the path of any vehicle approaching from the opposite direction shall not make such left

left at intersection



turn until he has afforded a reasonable opportunity to the driver or operator of such other vehicle to avoid a collision. R.S.O. 1960, c. 172, s. 68 (1, 2).

intersection  
of two-way  
highways

(3) The driver or operator of a vehicle intending to turn to the left into an intersecting highway at an intersection where traffic is permitted to move in both directions on each highway entering the intersection shall approach such intersection as closely as practicable to the centre line of the highway and the left turn shall be made by passing to the right of such centre line where it enters the intersection, and upon leaving the intersection by passing to the right of and as closely as practicable to the centre line of the highway then entered. R.S.O. 1960, c. 172, s. 68 (3); 1968, c. 50, s. 16 (1).

from  
one-way  
highway

(4) The driver or operator of a vehicle intending to turn to the left from a highway designated for use of one-way traffic into an intersecting highway on which traffic is permitted to move in both directions shall approach the intersection as closely as practicable to the left curb or edge of the roadway and on entering the intersection shall pass to the right of and as closely as practicable to the centre line of the highway being entered where it enters the intersection. R.S.O. 1960, c. 172, s. 68 (4); 1968, c. 50, s. 16 (2).

into  
one-way  
highway

(5) The driver or operator of a vehicle intending to turn to the left from a highway on which traffic is permitted to move in both directions into an intersecting highway designated for the use of one-way traffic shall approach the intersection as closely as practicable to the centre line of the highway and on entering the intersection the left turn shall be made by passing as closely as practicable to the left hand curb or edge of the roadway designated for the use of one-way traffic.

from  
one-way  
highway to  
one-way  
highway

(6) The driver or operator of a vehicle intending to turn to the left from a highway designated for use of one-way traffic into an intersecting highway designated for use of one-way traffic shall approach the intersection as closely as practicable to the left-hand curb or edge of the roadway and on entering the intersection the left turn shall be made by passing as closely as practicable to the left-hand curb or edge of the roadway being entered. R.S.O. 1960, c. 172, s. 68 (5, 6).

Provisions  
subject  
to cl. c  
of s. 103

(7) The provisions of subsections 1, 2, 3, 4, 5 and 6 are subject to clause c of section 103. 1968, c. 50, s. 16 (3).

Signal for  
left or right  
turn

**94.**—(1) The driver or operator of a vehicle upon a highway before turning to the left or right at any intersection or into a private road or driveway or from one lane for traffic to another lane for traffic or to leave the roadway shall first see that such movement can be made in safety, and if the operation of any other vehicle may be affected by such movement shall give a signal

plainly visible to the driver or operator of such other vehicle of the intention to make such movement. R.S.O. 1960, c. 172, s. 69 (1); 1966, c. 64, s. 13.

(2) The driver or operator of a vehicle parked or stopped on the highway before setting the vehicle in motion shall first see that the movement can be made in safety, and, if in turning the vehicle the operation of any other vehicle may be affected by such movement, shall give a signal plainly visible to the driver or operator of such other vehicle of the intention to make such movement. 1960-61, c. 34, s. 8 (1).

Signal when  
moving  
from  
parked  
position

(3) The signal required in subsections 1 and 2 shall be given either by means of the hand and arm in the manner herein specified or by a mechanical or electrical signal device as described in subsection 5. R.S.O. 1960, c. 172, s. 69 (2); 1960-61, c. 34, s. 8 (2).

Mode of  
signalling  
turn

(4) When the signal is given by means of the hand and arm, the driver or operator shall indicate his intention to turn,

How to  
signal  
manually

- (a) to the left, by extending the hand and arm horizontally and beyond the left side of the vehicle; or
- (b) to the right, by extending the hand and arm upward and beyond the left side of the vehicle.

(5) A mechanical or electrical signal device shall clearly indicate the intention to turn, shall be visible and understandable during day-time and night-time from the front and from the rear of the vehicle for a distance of 100 feet, and shall be self-illuminated when used at any time from one-half hour after sunset to one-half hour before sunrise. R.S.O. 1960, c. 172, s. 69 (3, 4).

Require-  
ments for  
signalling  
device

(6) No person while operating or in control of a vehicle upon a highway shall actuate the mechanical or electrical device referred to in subsection 5 for any purpose other than to indicate a movement referred to in subsection 1 or 2. 1968, c. 50, s. 17.

Signalling  
devices  
to be used  
only for  
purpose of  
indicating  
turn

(7) The driver or operator of a vehicle upon a highway before stopping or suddenly decreasing the speed of the vehicle, if the operation of any other vehicle may be affected by such stopping or decreasing of speed, shall give a signal plainly visible to the driver or operator of such other vehicle of the intention to stop or decrease speed,

Signal for  
stop

- (a) by means of the hand and arm extended downward beyond the left side of the vehicle; or
- (b) by means of a stop lamp or lamps on the rear of the vehicle which shall emit a red or yellow light and which shall be actuated upon application of the service or foot brake and which may or may not be incorporated with one or more rear lamps. R.S.O. 1960, c. 172, s. 69 (5).

manually

signalling  
device

U-turns  
prohibited

**95.** No driver or operator of a vehicle upon a highway shall turn the vehicle so as to proceed in the opposite direction when,

- (a) upon a curve where traffic approaching the vehicle from either direction cannot be seen by the driver of the vehicle within a distance of 500 feet;
- (b) on a railway crossing or within 100 feet of a railway crossing;
- (c) upon an approach to or near the crest of a grade where the vehicle cannot be seen by the driver of another vehicle approaching from either direction within 500 feet; or
- (d) within 500 feet of a bridge, viaduct or tunnel where the driver's view is obstructed within such distance. 1960-61, c. 34, s. 9.

Signal-  
light traffic  
control  
systems,  
interpreta-  
tion

**96.**—(1) In this section, “intersection” includes any portion of a highway distinctly indicated as a crossing place for pedestrians by lines or other markings on the surface of the highway.

arrange-  
ment of  
lights

(2) Green arrow, green, amber and red lights may be used for signal-light traffic control systems and such lights shall be arranged vertically in the following order commencing at the bottom, green arrow, green, amber and red.

Driver rules,  
on green

(3) When a green signal-light is shown at an intersection, the driver or operator of a vehicle or car of an electric railway that is approaching the intersection and facing such light may proceed across the intersection or turn left or right. R.S.O. 1960, c. 172, s. 70 (1-3).

flashing  
green

(4) When a green light illuminated by rapid intermittent flashes is shown at an intersection, the driver or operator of a vehicle or car of an electric railway that is approaching the intersection and facing such light may, notwithstanding subsection 2 of section 93, proceed across the intersection or turn left or right. 1968, c. 50, s. 18 (1).

red

(5) When a red signal-light is shown at an intersection, every driver or operator of a vehicle or car of an electric railway that is approaching the intersection and facing such light shall bring his vehicle or car to a full stop at a clearly marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection, and shall not proceed until a green light is shown, provided that the driver or operator may turn to the right after bringing the vehicle or car to a full stop. R.S.O. 1960, c. 172, s. 70 (4).

amber  
light

(6) When an amber signal-light is shown at an intersection, the driver or operator of a vehicle or car of an electric railway that is approaching the intersection and facing such light shall bring his

vehicle or car to a full stop at a clearly marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection, provided that, where any such vehicle or car cannot be brought to such a stop in safety, it may be driven cautiously across the intersection. 1960-61, c. 34, s. 10 (2).

(7) Where a red signal-light illuminated by rapid intermittent flashes is shown at an intersection, the driver or operator of a vehicle or car of an electric railway that is approaching the intersection and facing such light shall bring his vehicle or car to a full stop at a clearly marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection, and, upon entering the intersection, shall yield the right of way to traffic in the intersection or approaching the intersection on another highway so closely that it constitutes an immediate hazard and having so yielded the right of way may proceed with caution and the traffic approaching the intersection on another highway shall yield the right of way to the vehicle so proceeding in the intersection. 1960-61, c. 34, s. 10 (3).

(8) When an amber light illuminated by rapid intermittent flashes is shown at the intersection, the driver or operator of a vehicle, or a car of an electric railway, which is approaching the intersection and facing such light, may proceed through the intersection only with caution.

(9) When a red signal-light with a green arrow is shown at an intersection, the driver or operator of a vehicle, or a car of an electric railway, which is approaching the intersection and facing such light, may proceed with caution into the intersection only to make the movement indicated by such arrow, but shall yield the right of way to pedestrians and other traffic lawfully using the intersection. R.S.O. 1960, c. 172, s. 70 (7, 8).

(10) When under this section the driver or operator of a vehicle or car of an electric railway is permitted to turn left or right, such driver or operator shall yield the right of way to pedestrians and other traffic lawfully within the intersection and to pedestrians lawfully within a crosswalk. R.S.O. 1960, c. 172, s. 70 (9); 1960-61, c. 34, s. 10 (4).

(11) The provisions of this section are subject to any sign forbidding a left or right turn or both that is conspicuously posted at any intersection, and the driver of a vehicle shall obey such sign. 1966, c. 64, s. 14.

(12) Subject to subsection 13, a pedestrian approaching and facing a green light at an intersection may proceed across the roadway, provided that, where markings upon the roadway indicate the portion of the roadway to be used by pedestrian traffic, the pedestrian shall proceed within the marked portion.



flashing  
green

(13) A pedestrian approaching and facing a green light illuminated by rapid intermittent flashes at an intersection shall not proceed across the roadway except in accordance with subsection 15. 1968, c. 50, s. 18 (2).

red or  
amber

(14) When a red or amber signal-light is shown at an intersection, a pedestrian approaching such intersection and facing such light shall not enter the roadway until a green light is shown. 1960-61, c. 34, s. 10 (6), *part*.

Pedestrian  
control  
signals

(15) Notwithstanding subsection 12,

- (a) when a "walk" pedestrian control signal is shown, a pedestrian facing the signal may proceed across the roadway in the direction of the signal and while so proceeding across the roadway has the right of way over all vehicles;
- (b) when a "wait" or "don't walk" pedestrian control signal is shown,
  - (i) a pedestrian facing the signal shall not commence to cross the roadway until a "walk" pedestrian control signal is shown,
  - (ii) a pedestrian proceeding across the roadway when a "wait" or "don't walk" signal is shown after he entered the roadway shall quickly proceed across the roadway and has a right of way for that purpose over all vehicles. R.S.O. 1960, c. 172, s. 70 (13).

Symbols

(16) The "walk", "wait" and "don't walk" pedestrian control signals referred to in subsection 15 may be shown by symbols as prescribed by the regulations. 1970, c. 74, s. 5.

Erection of  
signal lights

(17) Every signal-light traffic control system shall consist of sets of green, amber and red or green arrow, green, amber and red signal-lights, each of which sets shall be mounted on or suspended from or by means of a bracket or extended arm attached to a post or other standard located to the right side of the roadway used by the traffic controlled by it and to the side of the intersecting roadway that is remote from such traffic as it approaches, and the lower portion of each of such sets shall be not less than nine feet from the level of the roadway, provided that, where any such system is installed at an intersection other than an intersection where two highways cross, the arrangement of the lights shall comply as nearly as possible with the provisions of this subsection. R.S.O. 1960, c. 172, s. 70 (14); 1964, c. 38, s. 9.

Prohibition  
re showing  
green and  
amber  
simul-  
taneously  
Erection of  
signal lights

(18) No signal-light traffic control system shall be operated in such a manner as to show green and amber signal-lights simultaneously. 1960-61, c. 34, s. 10 (6), *part, amended*.

(19) A signal-light traffic control system may be erected and maintained at a place other than an intersection, in which event the provisions of this section, except those that by their nature

can have no application, are applicable, and any stop required shall be made at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the signal.

(20) No signal-light traffic control system shall be erected Idem unless the approval of the Department has been obtained.

(21) Additional signal-lights may be installed with the approv- Idem al of the Department for use in conjunction with any signal-light traffic control system. R.S.O. 1960, c. 172, s. 70 (15-17).

**97.** Any vehicle proceeding upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall when practicable be driven in the right hand lane then available for traffic or as close as practicable to the right hand curb or edge of the roadway except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway. 1962-63, c. 56, s. 14. Driving on right side of multi-lane highway

**98.—**(1) Where a person in charge of a vehicle on a highway meets another vehicle, he shall turn out to the right from the centre of the roadway, allowing to the vehicle so met one-half of the roadway free, but this does not apply to a vehicle, road-building machine or apparatus while engaged in the construction, maintenance or making of a highway. Passing, vehicles meeting others

(2) Where a person in charge of a vehicle on a highway meets a person travelling upon a bicycle or tricycle, the person in charge of the vehicle shall allow the person travelling on the bicycle or tricycle sufficient room on the roadway to pass. Vehicles meeting bicycles, etc.

(3) Where a person in charge of a vehicle or on horseback on a highway is overtaken by a vehicle or horseman travelling at a greater speed, the person so overtaken shall turn out to the right and allow such vehicle or horseman to pass. Vehicles or horsemen overtaken by others

(4) Any person so overtaking another vehicle or horseman shall turn out to the left so far as may be necessary to avoid a collision with the vehicle or horseman overtaken, and the person overtaken is not required to leave more than one-half of the roadway free. Vehicles or horsemen overtaking others

(5) Where a person on a bicycle or a tricycle on a highway is overtaken by a vehicle or horseman travelling at a greater speed, the person so overtaken shall turn out to the right and allow such vehicle or horseman to pass and the person so overtaking a bicycle or tricycle shall turn out to the left so far as may be necessary to avoid a collision. Bicycles or tricycles overtaken by vehicles or horsemen

(6) Where one vehicle is met or overtaken by another, if by reason of the weight of the load on either of the vehicles so meeting or on the vehicle so overtaken the driver finds it impracticable to Driver unable to turn out is to stop

turn out, he shall immediately stop, and, if necessary for the safety of the other vehicle and if required so to do, he shall assist the person in charge thereof to pass without damage.

Passing  
vehicle  
going in  
same  
direction

(7) No person in charge of a vehicle shall pass or attempt to pass another vehicle going in the same direction on a highway unless the roadway,

- (a) in front of and to the left of the vehicle to be passed is safely free from approaching traffic; and
- (b) to the left of the vehicle passing or attempting to pass is safely free from overtaking traffic. R.S.O. 1960, c. 172, s. 71.

Driving to  
left of  
centre of  
roadway  
under  
certain  
conditions  
prohibited

**99.** No vehicle shall be driven or operated to the left of the centre of a roadway designed for one or more lines of traffic in each direction,

- (a) when approaching the crest of a grade or upon a curve in the roadway or within 100 feet of a bridge, viaduct or tunnel where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction; or
- (b) when approaching within 100 feet of a level railway crossing,

but this section does not apply to a highway designated for the use of one-way traffic or to a highway divided into clearly marked lanes where there are more such lanes for traffic in one direction than in the other direction. R.S.O. 1960, c. 172, s. 72; 1966, c. 64, s. 15; 1968-69, c. 45, s. 49.

Passing to  
right of  
vehicle

**100.—**(1) Notwithstanding section 98 and subject to subsection 2, the driver of a motor vehicle may overtake and pass to the right of another vehicle only under the following conditions,

- (a) when the vehicle overtaken is making or about to make a left turn or its driver has signalled his intention to make a left turn; or
- (b) upon a highway with unobstructed pavement of sufficient width for two or more lines of vehicles in each direction; or
- (c) upon a highway designated for the use of one-way traffic only. R.S.O. 1960, c. 172, s. 73 (1); 1960-61, c. 34, s. 11 (1).

May pass  
to right  
only under  
safe  
conditions

(2) The driver of a motor vehicle shall not overtake and pass to the right of another vehicle where such movement cannot be made in safety and in no event shall a driver make such movement by driving off the roadway. R.S.O. 1960, c. 172, s. 73 (2).

**101.** For the purposes of sections 102 and 103, "designated" <sup>Interpre-</sup> means designated by the Minister or by any person authorized by him to make such designation or designated by by-law of a municipality, approved by the Department. R.S.O. 1960, c. 172, s. 74.

**102.** Where a highway has been designated for the use of <sup>Highway</sup> one-way traffic only and official signs have been erected accord- <sup>designated</sup> ingly, vehicles shall be driven only in the direction so designat- <sup>for one-way</sup> ed. R.S.O. 1960, c. 172, s. 75. <sup>traffic</sup>

**103.** Where a highway has been divided into clearly marked <sup>Where</sup> lanes for traffic, <sup>highway</sup> <sup>divided</sup> <sup>into lanes</sup>

- (a) a vehicle shall be driven as nearly as may be practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;
- (b) in the case of a highway that is divided into three lanes, a vehicle shall not be driven in the centre lane except when overtaking and passing another vehicle where the roadway is clearly visible and the centre lane is clear of traffic within a reasonable safe distance, or in preparation for a left turn, or where such centre lane is at the time designated for the use of traffic moving in the direction in which the vehicle is proceeding and official signs are erected to indicate such designation;
- (c) any lane may be designated for slowly moving traffic or traffic moving in a particular direction provided that official signs are erected to indicate such designation, and, notwithstanding section 93, where a highway is so designated the driver of every vehicle shall obey the direction on the official signs. R.S.O. 1960, c. 172, s. 76; 1968, c. 50, s. 19.

**104.** Where a highway is divided into two separate roadways, <sup>Moving from</sup> no person shall operate or drive a vehicle or lead, ride or drive an <sup>roadway to</sup> animal, <sup>roadway on</sup> <sup>divided</sup> <sup>highways</sup>

- (a) along or on such highway except on the roadway on the right-hand side, having regard to the direction in which the vehicle is being operated or driven or the animal is being led, ridden or driven; or
- (b) from one roadway to the other roadway except where a crossing is provided. 1964, c. 38, s. 10.

**105.**—(1) The driver or operator of a motor vehicle shall not <sup>Headway</sup> follow another vehicle more closely than is reasonable and <sup>of motor</sup> prudent having due regard for the speed of such vehicle and the <sup>vehicles</sup> traffic on and the conditions of the highway.



Headway  
for com-  
mercial  
vehicles

(2) The driver or operator of a commercial motor vehicle when driving on a highway outside of a city, town or village shall not follow within 200 feet of another commercial motor vehicle, but this shall not be construed to prevent one commercial motor vehicle overtaking and passing another such vehicle. R.S.O. 1960, c. 172, s. 78.

Fire  
department  
vehicle,  
etc.,  
approaching

**106.**—(1) The driver of a vehicle, upon the approach of an ambulance, fire or police department vehicle or public utility emergency vehicle, upon which a bell or siren is sounding or a lamp located on the roof of the vehicle is producing intermittent flashes of red light, shall immediately bring such vehicle to a standstill as near as is practicable to the right-hand curb or edge of the roadway and parallel therewith and clear of any intersection. R.S.O. 1960, c. 172, s. 79 (1); 1968-69, c. 45, s. 51.

Following  
fire  
department  
vehicle

(2) No driver of a vehicle shall follow a fire department vehicle when responding to an alarm at a distance of less than 500 feet. R.S.O. 1960, c. 172, s. 79 (2).

Towing of  
persons on  
bicycles,  
toboggans,  
etc.,  
prohibited

**107.** No driver of a vehicle or street car shall permit any person riding upon a bicycle, coaster, roller skates, skis, toboggan, sled or toy vehicle to attach the same or himself to the vehicle or street car. R.S.O. 1960, c. 172, s. 80.

Only one  
vehicle to  
be drawn on  
highway

**108.** No person shall drive on a highway a motor vehicle other than a commercial motor vehicle, that is drawing more than one vehicle. 1967, c. 35, s. 11.

Crowding  
driver's  
seat

**109.** No person shall operate a motor vehicle with persons or property in the front or driver's seat so placed as to interfere with the proper management or control of the motor vehicle. R.S.O. 1960, c. 172, s. 81.

Vehicles  
required to  
stop at  
railway  
crossing  
signal

**110.** When the driver of a vehicle is approaching a railway crossing at a time when a clearly visible electrical or mechanical signal device or a flagman is giving warning of the approach of a railway train, he shall stop the vehicle not less than 15 feet from the nearest rail of the railway and shall not proceed until he can do so safely. R.S.O. 1960, c. 172, s. 82.

Driving of  
vehicles  
under  
crossing  
gates  
prohibited

**111.** No person shall drive a vehicle through, around or under a crossing gate or barrier at a railway crossing while the gate or barrier is closed or is being opened or closed. R.S.O. 1960, c. 172, s. 83.

Opening  
of doors of  
motor  
vehicles

**112.** No person shall,

- (a) open the door of a motor vehicle on a highway without first taking due precautions to ensure that his act will not interfere with the movement of or endanger any other person or vehicle; or

- (b) leave a door of a motor vehicle on a highway open on the side of the vehicle available to moving traffic for a period of time longer than is necessary to load or unload passengers. R.S.O. 1960, c. 172, s. 84.

**113.**—(1) Where a person in charge of a vehicle or on a bicycle or tricycle or on horseback or leading a horse on a highway overtakes a street car or a car of an electric railway, operated in or near the centre of the roadway, which is stationary for the purpose of taking on or discharging passengers, he shall not pass the car or approach nearer than six feet measured back from the rear or front entrance or exit, as the case may be, of the car on the side on which passengers are getting on or off until such passengers have got on or got safely to the side of the street, as the case may be, but this subsection does not apply where a safety zone has been set aside and designated by a by-law passed under paragraph 111 of subsection 1 of section 354 of *The Municipal Act*.

Requirement when approaching standing street car

R.S.O. 1970, c. 284

(2) No person in charge of a vehicle, or on a bicycle or tricycle, or on horseback or leading a horse, overtaking a street car or the car of an electric railway, operated in or near the centre of the roadway, which is stationary or in motion, shall pass on the left side of such car, having reference to the direction in which such car is travelling, but this subsection does not apply to a vehicle belonging to a municipal fire department while proceeding to a fire or answering a fire alarm call or where the street car or car of an electric railway is being operated on a highway designated for the use of one-way traffic. R.S.O. 1960, c. 172, s. 86 (1, 2).

Prohibition as to passing street cars on left-hand side

**114.** Every person having the control or charge of a motor vehicle on a highway, when approaching a horse or other animal that is drawing a vehicle or being driven, led or ridden, shall operate, manage and control the motor vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of the horse or other animal and to ensure the safety and protection of any person driving, leading or riding upon the horse or other animal or being in any vehicle drawn by the horse or other animal. R.S.O. 1960, c. 172, s. 87 (1).

Approaching ridden or driven horses, etc.

**115.** When on a highway at any time when lighted lamps are required to be displayed on vehicles, the driver of a motor vehicle equipped with multiple beam headlamps shall use the lower or passing beam when,

Use of passing beam

- (a) approaching an oncoming vehicle within 500 feet; or
- (b) following another vehicle within 200 feet, except when in the act of overtaking and passing. R.S.O. 1960, c. 172, s. 88; 1965, c. 46, s. 11.

**116.**—(1) No person shall park, stand or stop a vehicle on a roadway,

Parking on roadway

- (a) when it is practicable to park, stand or stop the vehicle off the roadway; or
- (b) when it is not practicable to park, stand or stop the vehicle off the roadway unless a clear view of the vehicle and of the roadway for at least 400 feet beyond the vehicle may be obtained from a distance of at least 400 feet from the vehicle in each direction upon the highway.

Where  
subs. 1 not  
to apply

(2) Subsection 1 does not apply to a roadway within a city, town or village, and the provisions of subsection 1 with respect to parking, standing or stopping do not apply to a portion of a roadway in respect of which a by-law passed by the council of a township or county or by the trustees of a police village prohibiting or regulating parking, standing or stopping on the roadway, as the case may be, is in force. 1965, c. 46, s. 12 (1).

Regulations,  
parking, etc.

(3) The Lieutenant Governor in Council may make regulations prohibiting or regulating the parking, standing or stopping of vehicles upon a highway or any part of a highway or upon any class or classes thereof.

Effect of  
regulation  
on municip-  
al by-law

(4) The part of every municipal by-law that is inconsistent with or has the same effect as a regulation made under subsection 3 is revoked on the day the regulation comes into force. 1965, c. 46, s. 12 (2).

Removal of  
car parked  
at prohibi-  
ted place

(5) Whenever a constable or an officer appointed for carrying out the provisions of this Act finds a vehicle on a highway in contravention of the provisions of this section or the regulations, he may move the vehicle or require the driver or operator or other person in charge of the vehicle to move it.

Disabled  
cars

(6) The provisions of this section do not apply to the driver or operator of a vehicle that is so disabled while on a highway that it is impossible to avoid temporarily a contravention of such provisions. R.S.O. 1960, c. 172, s. 89 (4, 5).

Precaution  
against  
vehicle  
being set  
in motion

(7) No person shall park or stand a vehicle on a highway unless he has taken such action as may be reasonably necessary in the circumstances to prevent the vehicle from moving or being set in motion. R.S.O. 1960, c. 172, s. 89 (6); 1965, c. 46, s. 12 (3).

Warning  
lights on  
commercial  
motor  
vehicles

(8) Every commercial motor vehicle, when on a highway outside a city, town or village at any time when lighted lamps are required to be displayed on vehicles, shall be equipped with a sufficient number of,

- (a) flares, lamps or lanterns that have been approved by the Department, capable of continuously producing two warning lights, each visible from a distance of at least 500 feet for a period of at least eight hours; or
- (b) portable reflectors that have been approved by the Department. R.S.O. 1960, c. 172, s. 89 (7); 1965, c. 46, s. 12 (4).

(9) When any commercial motor vehicle or trailer is disabled during the period when lighted lamps are required to be displayed on vehicles and the vehicle cannot immediately be removed from the roadway outside a city, town or village, the driver or other person in charge of the vehicle shall cause such flares, lamps or lanterns to be lighted, and shall cause them or portable reflectors approved by the Department to be placed and maintained on the highway until such time as lighted lamps are not required to be displayed on vehicles or the removal of the vehicle, one at a distance of approximately 100 feet in advance of the vehicle and one at a distance of approximately 100 feet to the rear of the vehicle. R.S.O. 1960, c. 172, s. 89 (8); 1965, c. 46, s. 12 (5).

Flares on disabled commercial motor vehicle or trailer

(10) Notwithstanding the other provisions of this section, no person shall park or stand a vehicle on a highway in such a manner as to interfere with the movement of traffic or the clearing of snow from the highway.

Vehicles interfering with traffic

(11) The provisions of subsection 10 with respect to parking or standing in such a manner as to interfere with the movement of traffic or with the clearing of snow from the highway do not apply to a portion of a highway in respect of which a municipal by-law prohibiting or regulating parking or standing in such a manner as to interfere with traffic or with the clearing of snow from the highway, as the case may be, is in force. 1965, c. 46, s. 12 (6).

Application of subs. 10, where by-law in force

(12) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$50. 1968-69, c. 45, s. 55.

Penalty

(13) A constable or an officer appointed for the carrying out of the provisions of this Act, upon discovery of any vehicle parked or standing in contravention of subsection 10 or of a municipal by-law, may cause it to be moved or taken to and placed or stored in a suitable place and all costs and charges for removing, care and storage thereof, if any, are a lien upon the vehicle, which may be enforced in the manner provided by section 48 of *The Mechanic's Lien Act*. R.S.O. 1960, c. 172, s. 89 (11); 1965, c. 46, s. 12 (7).

Powers of constable to remove vehicle

R.S.O. 1970, c. 267

**117.**—(1) No person shall drive a motor vehicle on a highway in a race or on a bet or wager. R.S.O. 1960, c. 172, s. 91 (1).

Racing on highway

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence may be suspended for a period of not more than two years. 1968-69, c. 45, s. 57.

Penalty

**118.** No person shall race or drive furiously any horse or other animal on a highway. R.S.O. 1960, c. 172, s. 92 (1).

Horse racing on highway



Vehicles  
required  
to stop at  
railway  
crossings

**119.** The driver of,

- (a) a motor vehicle having a seating capacity for ten or more persons, when transporting children to and from school; or
- (b) a public vehicle,

upon approaching on a highway a railway crossing that is not protected by gates or railway crossing signal lights or unless otherwise directed by a flagman, shall stop such vehicle not less than 15 feet from the nearest rail of the railway and, having stopped, shall look in both directions along the track and open a door of the vehicle and listen for any approaching train and, when it is safe to do so, shall cross the railway track in a gear that he will not need to change while crossing the track and he shall not change gears while crossing. R.S.O. 1960, c. 172, s. 93 (1); 1964, c. 38, s. 11.

Interpre-  
tation

**120.**—(1) In subsections 2 to 5, “school bus” means a motor vehicle used for the transportation of children to and from school that,

- (a) bears on the rear thereof the words “do not pass when signals flashing”; and
- (b) is equipped with two red signal-lights on the rear thereof and two red signal-lights on the front thereof,

as required by the regulations. 1960-61, c. 34, s. 12, *part*; 1961-62, c. 52, s. 13 (1); 1966, c. 64, s. 17 (1).

Duty of  
driver when  
school bus  
stopped on  
highway

(2) Where a school bus is stopped on a highway or part of a highway on which the maximum speed limit is greater than 35 miles per hour for the purpose of receiving or discharging school children, the driver of a vehicle,

- (a) when overtaking a school bus on which the words “do not pass when signals flashing” are marked and two red signal-lights are illuminated by intermittent flashes; and
- (b) when meeting on such a highway, other than a highway with a median strip, a school bus on the front of which two red signal-lights are illuminated with intermittent flashes,

shall stop the vehicle before reaching the school bus and shall not proceed until the school bus resumes motion or the signal-lights are no longer operating. 1966, c. 64, s. 17 (2), *part*; 1968-69, c. 45, s. 60.

Duty of  
driver of  
school bus  
to actuate  
signals

(3) The driver of such a school bus upon a highway or part of a highway on which the maximum speed limit is greater than 35 miles per hour, when he is about to stop the school bus for the purpose of receiving or discharging school children, shall actuate

the signal-lights and shall continue them in operation while stopped for such purpose and, in the case of such a highway that does not have separate roadways, until those children who of necessity must cross the highway have completed the crossing. 1966, c. 64, s. 17 (2), *part*.

(4) The council of a defined city under Part IV of *The Secondary Schools and Boards of Education Act*, the council of a municipality in the school division under the jurisdiction of The Ottawa Board of Education, and the council of the Regional Corporation under *The Regional Municipality of Ottawa-Carleton Act* in relation to highways under its jurisdiction in such school division, and the council of an area municipality and of the Metropolitan Corporation under *The Municipality of Metropolitan Toronto Act* may provide by by-law that subsections 2 and 3 do not apply to the highways under its jurisdiction. 1968, c. 50, s. 20.

Application of subsections 2 and 3 to certain municipalities

R.S.O. 1970, c. 425, 407

R.S.O. 1970, c. 295

(5) The words on a school bus "do not pass when signals flashing" shall be covered or concealed when the school bus is being operated upon a highway for purposes other than the transportation of children to or from school. 1960-61, c. 34, s. 12, *part*; 1961-62, c. 52, s. 13 (5).

Markings to be covered when bus not used to transport children

(6) The Lieutenant Governor in Council may make regulations,

Regulations re school buses

- (a) respecting the operation of vehicles or any class or type thereof used for transporting children to and from school and operated by or under contract with a school board or other authority in charge of a school;
- (b) prescribing the type, design and colour of school buses or any class thereof and the markings to be displayed thereon;
- (c) requiring the use of any equipment on or in such vehicles or any class or type thereof and prescribing the standards and specifications of such equipment;
- (d) prescribing the qualifications of drivers of such vehicles or any class or type thereof and prohibiting the operation thereof by unqualified persons;
- (e) requiring the inspection of such vehicles or any class or type thereof. 1960-61, c. 34, s. 12, *part*.

**121.** No person, while on the roadway, shall,

Soliciting rides, etc., prohibited

- (a) solicit a ride from the driver of a motor vehicle other than a public passenger conveyance; or
- (b) stop or attempt to stop a motor vehicle for the purpose of selling or offering to sell any commodity or service to the driver or any other person in the motor vehicle. R.S.O. 1960, c. 172, s. 95 (1).

Bicycle  
riders, etc.,  
clinging to  
vehicles

**122.**—(1) A person riding upon a bicycle, a coaster, roller skates, skis, a toboggan, a sled or a toy vehicle shall not attach it or them or himself to a vehicle or street car on a roadway.

Person on  
bicycle

(2) No person riding on a bicycle designed for carrying one person only shall carry any other person thereon. R.S.O. 1960, c. 172, s. 96.

Persons  
clinging to  
vehicles

(3) No person shall attach himself to the outside of a vehicle or street car on a roadway for the purpose of being drawn along the roadway. 1968, c. 50, s. 21.

Duties of  
pedestrian  
when walk-  
ing along  
highway

**123.** Where sidewalks are not provided on a highway, a pedestrian walking along the highway shall walk on the left side thereof facing oncoming traffic and, when walking along the roadway, shall walk as close to the left edge thereof as possible. 1966, c. 64, s. 18.

Littering  
highway  
prohibited

**124.** Every person who throws or deposits or causes to be deposited any glass, nails, tacks or scraps of metal or any rubbish, refuse, waste or litter upon, along or adjacent to a highway, except in receptacles provided for the purpose, is guilty of the offence of littering the highway. 1968-69, c. 45, s. 62.

Signs and  
markings

**125.**—(1) The Lieutenant Governor in Council may make regulations providing for the erection of signs and the placing of markings on any highway or any type or class thereof, and prescribing the types of such signs and markings and the location on the highway of each type of sign and marking. 1964, c. 38, s. 12.

Signs to be  
obeyed

(2) Every driver or operator of a vehicle shall obey the instructions or directions indicated on any sign so erected. R.S.O. 1960, c. 172, s. 99 (2).

Tunnels,  
regulations  
re

**126.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) designating any part of a highway as a tunnel;
- (b) providing for the erection of signs and the placing of markings,
  - (i) on any highway approaching any part of a highway designated as a tunnel,
  - (ii) on any part of a highway designated as a tunnel,and prescribing the types of such signs and markings and the location of each type of sign and marking;
- (c) prohibiting or regulating the use of that part of the highway designated as a tunnel by pedestrians, animals or any class or classes of vehicles;

- (d) prohibiting or regulating the transportation of explosives and dangerous materials or any class thereof by a vehicle on that part of a highway designated as a tunnel.

(2) Every driver or operator of a vehicle shall obey the instructions or directions indicated on any sign so erected. 1968, c. 50, s. 22.

Signs to be obeyed

**127.** Every person who wilfully removes, defaces or in any manner interferes with any notice or obstruction lawfully placed on a highway is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both. 1968-69, c. 45, s. 63.

Defacing or removing notices or obstructions

**128.**—(1) The Lieutenant Governor in Council may make regulations prohibiting or regulating the use of any part of the King's Highway by pedestrians or animals or any class or classes of vehicles. 1968-69, c. 45, s. 64.

Regulating or prohibiting use of parts of King's Highway by pedestrians, etc.

(2) The council of a municipality may by by-law prohibit pedestrians or the use of bicycles or animals on any highway or portion of a highway under its jurisdiction on which the maximum speed limit is 50 miles per hour or more. 1968, c. 50, s. 23.

Prohibiting bicycles, etc., on municipal highways

**129.**—(1) Where an aircraft has made an emergency landing on a highway, the pilot, if he is physically capable, shall, within a reasonable time, remove it or cause it to be removed from the roadway.

Removal of aircraft from roadway after emergency landing

(2) No aircraft shall be driven or drawn along a highway unless the aircraft and the movement thereof comply with the provisions of this Act respecting vehicles and the movement thereof on a highway. 1967, c. 35, s. 12.

Aircraft and movement along highway subject to Act

**130.** No driver of a motor vehicle to which a house trailer or boat trailer is attached shall operate such motor vehicle on a highway if the trailer is occupied by any person. 1968, c. 50, s. 24, *part*.

Riding in house or boat trailers prohibited

**131.** No person shall operate a vehicle commonly known as an air cushioned vehicle on a highway. 1970, c. 74, s. 6.

Air cushioned vehicles prohibited on highways

## PART X

### CIVIL ACTIONS

**132.**—(1) The owner of a motor vehicle is liable for loss or damage sustained by any person by reason of negligence in the operation of the motor vehicle on a highway unless the motor

Liability for loss or damage



vehicle was without the owner's consent in the possession of some person other than the owner or his chauffeur, and the driver of a motor vehicle not being the owner is liable to the same extent as the owner. R.S.O. 1960, c. 172, s. 105 (1).

Consent of  
lessee

(2) Where a motor vehicle is leased, the consent of the lessee of the motor vehicle to the operation or possession thereof by some person other than the lessee shall, for the purposes of subsection 1, be deemed to be the consent of the owner of the motor vehicle. 1966, c. 64, s. 20 (1).

Liability  
for injury  
to passengers

(3) Notwithstanding subsection 1, the owner or driver of a motor vehicle, other than a vehicle operated in the business of carrying passengers for compensation, is not liable for any loss or damage resulting from bodily injury to, or the death of any person being carried in, or upon, or entering, or getting on to, or alighting from the motor vehicle, except where such loss or damage was caused or contributed to by the gross negligence of the driver of the motor vehicle. R.S.O. 1960, c. 172, s. 105 (2); 1966, c. 64, s. 20 (2).

Onus of  
disproving  
negligence

**133.**—(1) When loss or damage is sustained by any person by reason of a motor vehicle on a highway, the onus of proof that the loss or damage did not arise through the negligence or improper conduct of the owner or driver of the motor vehicle is upon the owner or driver.

Application  
of section

(2) This section does not apply in case of a collision between motor vehicles or between motor vehicles and cars of electric or steam railways or other motor vehicles running only on stationary rails on the highway nor to an action brought by a passenger in a motor vehicle in respect of any injuries sustained by him while a passenger. R.S.O. 1960, c. 172, s. 106.

Services of  
notice or  
process on  
non-  
residents

**134.** The use of a highway within Ontario by any person not resident in Ontario operating or responsible for the operation of a motor vehicle within Ontario shall, by virtue of the right of user conferred by this Act, be deemed to constitute the Registrar an agent of such person for the service of notice or process in an action in Ontario arising out of a motor vehicle accident in Ontario in which such person is involved, subject to the following conditions:

Service of  
notice, etc.

1. Such notice or process may be served by leaving a copy thereof with or at the office of the Registrar, together with a bond in form and by sureties approved by the Registrar in the sum of \$200 conditioned on the failure of the plaintiff to prevail in the action for the purpose of reimbursing the defendant for the expenses necessarily incurred by him in defending the action in Ontario.

2. Such service is sufficient service if notice of such service and a copy of the notice or process are forthwith sent by registered mail to the defendant and the defendant's return receipt is filed with the registrar or clerk of the court in which the action or proceeding is brought. R.S.O 1960, c. 172, s. 107. Sufficiency of service

## PART XI

### APPROVAL OF MUNICIPAL BY-LAWS

**135.**—(1) Every provision of a municipal by-law passed by the council of a municipality, a board of commissioners of police or the trustees of a police village for, Municipal by-laws approved

- (a) regulating traffic on the highways; or
- (b) regulating noise, fumes or smoke created by the operation of motor vehicles on the highways; or
- (c) prohibiting or regulating the operation of motor vehicles or any type or class thereof on the highways,

that is inconsistent with this Act, is deemed to be repealed and hereafter all by-laws passed for any of the purposes mentioned in clauses *a*, *b* and *c* shall not become operative until approved by the Department.

(2) Any by-law for regulating traffic on highways that is submitted to the Department for approval may be approved in whole or in part and, where part of a by-law is approved only, that part shall become operative. Approval of traffic by-law in whole or in part.

(3) The Department may withdraw its approval to any by-law or any part thereof by notice sent by registered mail to the clerk of the municipality and such by-law or part thereof shall be deemed to be repealed twenty-one days after the sending of the notice. R.S.O. 1960, c. 172, s. 108. Withdrawal of approval by Department

## PART XII

### SUSPENSION FOR FAILURE TO PAY JUDGMENTS

**136.** In this Part,

- (a) "driver's licence" means an operator's or a chauffeur's licence issued pursuant to this Act;
- (b) "motor vehicle", in addition to the meaning given in section 1, includes "trailer", as defined in section 1. 1970, c. 74, s. 7, *part*.

Interpretation

Notice of  
suspension

**137.** Where the Registrar has suspended a licence or permit, he shall send notice of such suspension by registered mail to the latest address appearing on the records of the Department of the person whose licence or permit is suspended. 1970, c. 74, s. 7, *part.*

Licence  
suspended  
for failure  
to pay  
judgment

**138.**—(1) The driver's licence of every person who fails to satisfy a judgment rendered against him by any court in Ontario that has become final by affirmation on appeal or by expiry without appeal of the time allowed for appeal, for damages on account of injury to or the death of any person, or on account of damage to property, occasioned by a motor vehicle, within fifteen days from the date upon which such judgment became final shall be suspended by the Registrar upon receiving a certificate of such final judgment from the court in which the same is rendered and after fifteen days notice has been sent to such person of intention to suspend his licence unless such judgment is satisfied within such period, and shall remain so suspended and shall not at any time thereafter be renewed, nor shall any new driver's licence be thereafter issued to such person, until such judgment is satisfied or discharged, otherwise than by a discharge in bankruptcy, to the extent of the minimum limits of liability required by *The Insurance Act* in respect of motor vehicle liability policies.

R.S.O. 1970,  
c. 224

Application  
where  
person  
indebted  
to fund

(2) Notwithstanding subsection 1, the Registrar shall not suspend under subsection 1 the driver's licence of any person who is indebted to the Motor Vehicle Accident Claims Fund.

Payment of  
judgments in  
instalments

(3) A judgment debtor may, on due notice to the judgment creditor, apply to the court in which the trial judgment was obtained for the privilege of paying the judgment in instalments, and the court may, in its discretion, so order, fixing the amounts and times of payment of the instalments, and while the judgment debtor is not in default in payment of such instalments, he shall be deemed not in default in payment of the judgment, and the Minister may restore the driver's licence of the judgment debtor, but such driver's licence shall again be suspended and remain suspended, as provided in subsection 1, if the Registrar is satisfied of default made by the judgment debtor in compliance with the terms of the court order.

Reciprocal  
effect of  
subs. 1  
with states  
having  
similar  
legislation

(4) The Lieutenant Governor in Council, upon the report of the Minister that a province or state has enacted legislation similar in effect to subsection 1 and that such legislation extends and applies to judgments rendered and become final against residents of that province or state by any court of competent jurisdiction in Ontario, may declare that the provisions of subsection 1 shall extend and apply to judgments rendered and become final against residents of Ontario by any court of competent jurisdiction in such province or state. 1970, c. 74, s. 7, *part.*

## PART XIII

RECORDS AND REPORTING OF ACCIDENTS AND  
CONVICTIONS

**139.**—(1) Every person in charge of a motor vehicle who is directly or indirectly involved in an accident shall, if the accident results in personal injuries or in damage to property apparently exceeding \$200, report the accident forthwith to the nearest provincial or municipal police officer and furnish him with such information concerning the accident as may be required by the officer under subsection 3. 1968-69, c. 45, s. 69 (1).

Duty to  
report  
accident

(2) Where such person is physically incapable of making a report and there is another occupant of the motor vehicle, such occupant shall make the report.

Where  
person  
unable to  
report

(3) A police officer receiving a report of an accident, as required by this section, shall secure from the person making the report, or by other inquiries where necessary, such particulars of the accident, the persons involved, the extent of the personal injuries or property damage, if any, and such other information as may be necessary to complete a written report concerning the accident and shall forward such report to the Registrar within ten days of the accident. R.S.O. 1960, c. 172, s. 143 (2, 3).

Duty of  
police  
officer

(4) The report of a police officer under subsection 3 shall be in such form as is approved by the Minister. 1968-69, c. 45, s. 69 (2).

Report of  
police  
officer

**140.**—(1) Where an accident occurs on a highway, every person in charge of a vehicle or car of an electric railway that is directly or indirectly involved in the accident shall,

Duty of  
person in  
charge of  
vehicle in  
case of  
accident

- (a) remain at or immediately return to the scene of the accident;
- (b) render all possible assistance; and
- (c) upon request, give in writing to anyone sustaining loss or injury, or to any constable or other police officer or to any witness, his name and address, and also the name and address of the registered owner of such vehicle, and the number of the vehicle permit. 1960-61, c. 34, s. 15, *part*.

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence or permit may be suspended for a period of not more than two years. 1968-69, c. 45, s. 70.

Penalty



Notification  
of damage  
to trees,  
fences, etc.

**141.** Every person who, as a result of an accident or otherwise, operates or drives a vehicle or leads, rides or drives an animal upon a highway and thereby damages any shrub, tree, pole, light, sign, sod or other property on the highway or a fence bordering the highway shall forthwith report such damage to a police officer or constable or to the Registrar. 1965, c. 46, s. 15.

Reports by  
coroners

**142.—**(1) Every coroner who investigates, and every Crown attorney and police officer having knowledge of a fatal accident in which a motor vehicle is involved, shall secure such particulars of the accident, the persons involved, and other information as may be necessary to complete a written report to the Registrar on the forms prescribed for that purpose, and shall transmit the report forthwith to the Registrar.

Reports re  
statistics  
and traffic  
control

(2) Every provincial or municipal official or employee, hospital, charitable institution, insurer or other person or organization shall furnish to the Registrar such reports and other information relating to motor vehicle accident statistics and traffic control generally as may be required by the regulations.

Compensa-  
tion may be  
allowed

(3) The Lieutenant Governor in Council, by regulation, may allow any person or organization making reports or furnishing information under this section such compensation for so doing as may be considered proper. R.S.O. 1960, c. 172, s. 145.

Report of  
medical  
practitioner

**143.—**(1) Every legally qualified medical practitioner shall report to the Registrar the name, address and clinical condition of every person sixteen years of age or over attending upon the medical practitioner for medical services, who in the opinion of such medical practitioner is suffering from a condition that may make it dangerous for such person to operate a motor vehicle.

No action  
for com-  
plying with  
subs. 1

(2) No action shall be brought against a qualified medical practitioner for complying with this section.

Reports  
privileged

(3) The report referred to in subsection 1 is privileged for the information of the Registrar only and shall not be open for public inspection, and such report is inadmissible in evidence for any purpose in any trial except to prove compliance with subsection 1. 1968, c. 50, s. 25.

Report of  
optometrist  
R.S.O. 1970,  
c. 335

**144.—**(1) Every optometrist registered under *The Optometry Act* shall report to the Registrar the name, address and clinical condition of every person sixteen years of age or over attending upon the optometrist for optometric services who, in the opinion of such optometrist, is suffering from an eye condition that may make it dangerous for such person to operate a motor vehicle.

No action  
for  
compliance  
with subs. 1

(2) No action shall be brought against a qualified optometrist for complying with this section.

(3) The report referred to in subsection 1 is privileged for the information of the Registrar only and shall not be open for public inspection, and such report is inadmissible in evidence for any purpose in any trial except to prove compliance with subsection 1. 1968-69, c. 45, s. 72. Reports privileged

**145.** The Registrar shall,

- (a) prepare and supply to police officers and other persons and organizations blank forms approved by the Minister for accident and other reports which shall call for such particulars concerning accidents, the person involved, and the extent of the personal injuries and property damage, if any, resulting therefrom, and such other information as may be required by the regulations; Duties of Registrar:  
supply of accident report forms
- (b) make such investigation of, and call for such written reports concerning, motor vehicle accidents, traffic conditions, and other matters, as he may consider necessary and proper, and for that purpose may require the assistance of any provincial or municipal police officer; investigation of accidents
- (c) keep, keeping of records
  - (i) a record of all motor vehicle accidents in Ontario, reported to him or concerning which he procures information,
  - (ii) a record of all convictions for offences under this Act or under the provisions of the *Criminal Code* (Canada) relating to driving on highways, reported to him pursuant to section 150, and of such other convictions as he may consider proper, 1953-54,  
c. 51 (Can.)
  - (iii) a record of all drivers' licences and owners' permits issued, suspended, revoked, cancelled or revived under this Act,
  - (iv) a record of all unsatisfied judgments rendered against persons holding owners' permits or drivers' licences under this Act, or non-residents reported to him pursuant to this Act,
  - (v) an operating record of every chauffeur and operator, which record shall show all reported convictions of such chauffeur or operator for a contravention of any provision of any statute relating to the operation of motor vehicles, and all reported unsatisfied judgments against such person for any injury or damage caused by such person while operating a motor vehicle and all accidents in which the records of the Registrar indicate such chauffeur or operator has been involved, and such other information as the registrar may consider proper, and
  - (vi) such other records as he may be directed to keep by the Minister;

accident  
and traffic  
statistics

(d) develop adequate uniform methods of accident and traffic statistics, and study accident causes and trends, traffic problems, and regulations;

annual  
report for  
Minister

(e) prepare for the Minister an annual report showing the results of such reporting, collection, analysis and study, and embodying his recommendations for the prevention of motor vehicle accidents and the solution of traffic problems, and such report shall be printed and published forthwith upon completion. R.S.O. 1960, c. 172, s. 146; 1970, c. 74, s. 8.

## PART XIV

### PROCEDURE, ARRESTS AND PENALTIES

Time limit  
for insti-  
tuting civil  
actions

**146.**—(1) Subject to subsections 2 and 3, no action shall be brought against a person for the recovery of damages occasioned by a motor vehicle after the expiration of twelve months from the time when the damages were sustained.

Limitation  
in case of  
death  
R.S.O. 1970,  
c. 164

(2) Where death is caused, the action may be brought within the time limited by *The Fatal Accidents Act*.

Action for  
damages

(3) Notwithstanding subsections 1 and 2, when an action is brought within the time limited by this Act for the recovery of damages occasioned by a motor vehicle and a counterclaim is made or third party proceedings are instituted by a defendant in respect of damages occasioned in the same accident, the lapse of time herein limited is not a bar to the counterclaim or third party proceedings. R.S.O. 1960, c. 172, s. 147.

Vehicle  
owner and  
driver liable  
for penalties

**147.**—(1) Subject to subsection 2, the owner of a vehicle shall incur the penalties provided for any contravention of this Act or of any regulation made by the Lieutenant Governor in Council or of any municipal by-law for regulating traffic approved by the Department unless at the time of the contravention the vehicle was in the possession of some person other than the owner or his chauffeur without the owner's consent, and the driver or operator of a vehicle not being the owner shall also incur the penalties provided for any such contravention. 1967, c. 35, s. 14.

Owner when  
not driver  
not liable  
for penalties

(2) The owner of a motor vehicle except when he is also the driver shall not incur the penalties provided for any contravention of any of the provisions of sections 82 to 114, 117, 120, 125 and 139 or any regulation or by-law made or passed thereunder or of any of the provisions of any by-law passed under any Act regulating or prohibiting turns on a highway. R.S.O. 1960, c. 172, s. 148 (2); 1966, c. 64, s. 21.

Recovery

**148.** Every person who contravenes any provision of this Act or of the regulations is guilty of an offence and the penalties imposed by or under the authority of this Act are recoverable under *The Summary Convictions Act*. R.S.O. 1960, c. 172, s. 149.

R.S.O. 1970,  
c. 450

**149.** No penalty or imprisonment is a bar to the recovery of damages by the injured person. R.S.O. 1960, c. 172, s. 150.

Right to  
damages  
reserved

**150.**—(1) A judge, provincial judge or justice of the peace who makes a conviction for an offence under this Act or under any other Act of the Legislature or the Parliament of Canada or any regulation or order made under any of them committed by means of a motor vehicle, or for an offence under a municipal by-law regulating traffic on the highways, except convictions for offences for standing or parking or the clerk of the court in which the conviction is made, shall forthwith certify the conviction to the Registrar, setting out the name, address and description of the person convicted, the number of his operator's or chauffeur's licence, the number of the permit of the motor vehicle with which the offence was committed, the time the offence was committed and the provision of the Act, regulation, order or by-law contravened. 1960-61, c. 34, s. 16; 1968, c. 50, s. 26, *amended*.

Report on  
conviction  
to Registrar

(2) A copy of any writing, paper or document filed in the Department pursuant to this Act, or any statement containing information from the records required to be kept under this Act, purporting to be certified by the Registrar under the seal of the Department, shall be received in evidence in all courts without proof of the seal or signature and is *prima facie* evidence of the facts contained therein.

Evidence

(3) An engraved, lithographed, printed or otherwise mechanically reproduced facsimile signature of the Registrar is sufficient authentication of any such copy or statement. R.S.O. 1960, c. 172, s. 152 (2, 3).

Signature of  
Registrar

**151.**—(1) If an owner of a motor vehicle is served with a summons to appear in a local municipality other than that in which he resides for an offence against this Act, and his defence is that neither he nor his motor vehicle was at the place of the alleged offence at the time such offence occurred, and that the summons must have been issued against him through an error of the informant as to the number on the official number plate, then and in that case only he may appear before a justice of the peace in the local municipality in which he resides and, in the same manner as if he were being tried for an offence against this Act, give evidence by himself and corroborated by the evidence of at least two other credible witnesses that neither he nor his motor vehicle was at the place of the alleged offence at the time such offence occurred, and that the summons must have been issued against him through an error of the informant as to the number on the official number plate.

When owner  
may appear  
before  
justice of  
the peace

(2) The justice, if satisfied of the truth of such evidence, shall forthwith make out a certificate in the form set out in the Schedule to this Act and forward it by registered mail to the justice before whom the summons is returnable.

Certificate



Dismissal  
or adjourn-  
ment

(3) The justice before whom the summons is returnable shall, upon receiving such certificate, thereupon dismiss the charge unless he has reason to believe that the testimony is untrue in whole or in part, in which case he may adjourn the case and again summon the defendant, who shall then be required to attend before him at the place and time mentioned in the summons. R.S.O. 1960, c. 172, s. 153.

General  
penalty

**152.** Every person who contravenes any of the provisions of this Act or of any regulation is guilty of an offence and on summary conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$20 and not more than \$100. 1968-69, c. 45, s. 74.

Assisting  
officers

**153.—**(1) Every person called upon to assist a constable or officer appointed for carrying out the provisions of this Act in the arrest of a person suspected of having committed any offence mentioned in subsection 2 may assist if he knows that the person calling on him for assistance is a constable or officer appointed for carrying out the provisions of this Act, and does not know that there are no reasonable grounds for the suspicion. R.S.O. 1960, c. 172, s. 156 (1).

Arrests by  
constable  
without  
warrant

(2) Every constable, who, on reasonable and probable grounds, believes that a contravention of any of the provisions of subsection 1 of section 7; clause *a*, *b*, *c* or *d* of subsection 1 of section 9; subsection 1 of section 10; subsection 2 of section 14; subsection 2 of section 17; subsection 2 or 3 of section 27; section 30; section 83, 117 or 127 or clause *a* of section 140 has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed such contravention, may arrest such person without warrant whether such person is guilty or not. 1968-69, c. 45, s. 76.

Arresting  
on view

(3) Every person may arrest without warrant any person whom he finds committing any such contravention.

Detaining  
vehicle  
when arrest  
is made

(4) A constable or officer appointed for carrying out the provisions of this Act, making an arrest without warrant, may detain the motor vehicle with which the offence was committed until the final disposition of any prosecution under this Act or under the *Criminal Code* (Canada), but the motor vehicle may be released on security for its production being given to the satisfaction of a justice of the peace or a provincial judge.

1953-54,  
c. 51 (Can.)

Care and  
storage  
charges

(5) All costs and charges for the care and storage of a motor vehicle detained under subsection 4 are a lien upon the motor vehicle, which may be enforced in the manner provided by section 48 of *The Mechanics' Lien Act*.

R.S.O. 1970,  
c. 267

(6) A constable or officer appointed for carrying out the provisions of this Act, making an arrest without warrant, shall, with reasonable diligence, take the person arrested before a justice of the peace or provincial judge to be dealt with according to law. R.S.O. 1960, c. 172, s. 156 (3-6), *amended*.

Duty of person arresting without warrant

**154.**—(1) In the event of,

- (a) a conviction under section 27 or 30 of this Act or section 222 or subsection 3 of section 225 of the *Criminal Code* (Canada); or
- (b) a second conviction under subsection 2 of section 221 of the *Criminal Code* (Canada),

Impounding motor vehicle  
1953-54,  
c. 51 (Can.)

the provincial judge or judge may order that the motor vehicle driven by or under the care or control of the person convicted at the time of the commission of the offence or last offence, as the case may be, shall be seized, impounded and taken into custody of the law for a period of three months, provided the motor vehicle was at such time owned by or registered in the name of such person, or owned by or registered in the name of the husband, wife, parent or dependent child of such person. R.S.O. 1960, c. 172, s. 157 (1); 1964, c. 38, s. 17 (1); 1968-69, c. 45, s. 77.

(2) Where there is a conviction under the section mentioned in clause *b* of subsection 1 and a previous conviction under a section mentioned in clause *a* of subsection 1, such first-mentioned conviction shall be deemed a second conviction, and, where there is a conviction under a section mentioned in clause *c* of subsection 1 and a previous conviction or two previous convictions under a section or sections mentioned in clause *a* or *b* of subsection 1, such first-mentioned conviction shall be deemed to be a second or third conviction, as the case may be. R.S.O. 1960, c. 172, s. 157 (2).

Second or third conviction

(3) Where a person pleads guilty to any of the offences mentioned in subsection 1, the provisions of subsection 1 do not apply unless the person has been given notice,

Seizure, etc., of vehicle upon conviction of certain offences

- (a) by a printed or written statement upon or accompanying the summons; or
- (b) by the provincial judge or judge verbally before accepting the plea,

in the following form or to the like effect:

*“The Highway Traffic Act provides that upon conviction of the offence with which you are charged, in the circumstances indicated therein, the provincial judge or judge may order that the motor vehicle which was driven by you or under your care or control at the time of the commission of the offence shall be seized, impounded and taken into the custody of the law”*

R.S.O. 1960, c. 172, s. 157 (3); 1964, c. 38, s. 17 (2).

Costs and charges for care and storage  
R.S.O. 1970, c. 267

(4) All costs and charges for the care and storage of the motor vehicle are a lien upon the motor vehicle, which may be enforced in the manner provided by section 48 of *The Mechanics' Lien Act*.

Release of vehicle on security given by owner

(5) If the person so convicted or the owner gives sufficient security to the convicting provincial judge or justice of the peace, by bond, recognizance, or otherwise, that the motor vehicle shall not be operated upon a highway during such period of three months, the same may be delivered to the person so convicted or the owner thereof, and, if the motor vehicle is operated upon a highway during such period, it shall be deemed to be operated without a permit.

Abandoned vehicle

(6) A constable or an officer appointed for carrying out the provisions of this Act, upon the discovery of a motor vehicle apparently abandoned on or near a highway or of a motor vehicle without proper registration plates, shall take the motor vehicle into his custody and may cause it to be taken to and stored in a suitable place and all costs and charges for removal, care or storage thereof are a lien upon the motor vehicle, which may be enforced in the manner provided by section 48 of *The Mechanics' Lien Act*. R.S.O. 1960, c. 172, s. 157 (4-6).

Impounding of vehicle on appeal

**155.** If a person to whom section 154 applies enters an appeal against his conviction and there is filed with the convicting provincial judge sufficient security for the production of the motor vehicle if the appeal should fail, section 154 does not apply unless the conviction is sustained on appeal. R.S.O. 1960, c. 172, s. 158.

Appointment of officers for carrying out provisions of Act

**156.—**(1) The Minister may appoint one or more persons on the staff of the Department as an officer or officers for the purpose of carrying out all or any of the provisions of this Act, and any person so appointed has authority to act as a constable throughout Ontario for such purpose.

Certificate of appointment

(2) A person appointed under subsection 1 shall, while carrying out his duties under the appointment, have in his possession a certificate of his appointment under subsection 1 and shall produce such certificate upon request. 1961-62, c. 52, s. 17.

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**SCHEDULE**

(Section 151 (2) )

## CERTIFICATE OF JUSTICE

I, (*name of Justice*), a Justice of the Peace in and for the county of  
 ..... hereby certify:

1. That (*name of defendant*), of the .....  
 of ..... in the county of .....  
 (*occupation*), this day appeared before me and produced to me a summons issued  
 by (*name of Justice issuing summons*), a Justice of the Peace in and for the county  
 of ..... , for an offence against *The*  
*Highway Traffic Act*, said to have been committed with respect to a car bearing the  
 official number plate number ..... for this year,  
 the offence being alleged to have been committed on the .....  
 of ..... in the county of .....  
 on the ..... day of .....

2. That the (*name of defendant*) has deposed before me that neither he nor his  
 motor vehicle was at such place on the .....  
 day of ..... , 19....., and that the summons must have  
 been issued against him through an error of the informant as to the number on the  
 official number plate, and his testimony in this respect has been corroborated by  
 the testimony of two credible witnesses, namely (*here insert the names of two*  
*witnesses*).

3. The depositions of the defendant and of the witnesses referred to in  
 paragraph 2 of this certificate are attached hereto.

4. That I am satisfied of the truth of the testimony given before me this day by  
 (*name of defendant and two witnesses*), and give this certificate in pursuance of  
 subsection 2 of section 151 of *The Highway Traffic Act*.

Dated at ..... this ..... day of  
 ....., 19.....

..... J.P.

(NOTE.—*Attach depositions of defendant and witnesses to this certificate.*)

R.S.O. 1960, c. 172, Sched.





## CHAPTER 203

**The Homemakers and Nurses Services  
Act****1.** In this Act,

- (a) “band”, “council of a band”, “member of a band” and “reserve” have the same meaning as in the *Indian Act* (Canada); Interpre-  
tation  
R.S.C. 1952,  
c. 149
- (b) “child” means a person under sixteen years of age;
- (c) “Director” means the Director of Homemakers and Nurses Services of the Department of Social and Family Services;
- (d) “Minister” means the Minister of Social and Family Services;
- (e) “municipal welfare administration” means a person appointed as such under this Act;
- (f) “municipality” means a city, town, village, township or improvement district and, where any municipality forms part of a county for the purpose of administering assistance under *The General Welfare Assistance Act*, means the county and not that municipality; R.S.O. 1970,  
c. 192
- (g) “physician” means a legally qualified medical practitioner;
- (h) “regional welfare administrator” means a person employed as such by the Department of Social and Family Services;
- (i) “regulations” means the regulations made under this Act;
- (j) “welfare administrator of a band” means a person appointed as such under this Act. 1968-69, c. 46, s. 1.

**2.** The Director shall,

- (a) exercise general supervision over the administration of this Act and the regulations; and
- (b) advise regional welfare administrators, municipal welfare administrators, welfare administrators of bands, and others as to the manner in which their duties under this Act are to be performed. R.S.O. 1960, c. 173, s. 2; 1968-69, s. 46, s. 2. Duties of  
Director

Appoint-  
ment of  
municipal  
welfare  
administra-  
tor

**3.**—(1) The council of a municipality may, with the approval of the Minister, appoint a municipal welfare administrator for the purposes of this Act. R.S.O. 1960, c. 173, s. 3.

Appoint-  
ment of  
welfare  
adminis-  
trator of  
band

(2) The council of a band may, with the approval of the Minister, appoint a member of the band as the welfare administrator of the band for the purposes of this Act. 1968-69, c. 46, s. 3.

Power to  
take  
affidavits

**4.** The Director, every regional welfare administrator, every municipal welfare administrator, and every welfare administrator of a band is, in the performance of his duties under this Act, a commissioner for taking affidavits within the meaning of *The Commissioners for taking Affidavits Act*. R.S.O. 1960, c. 173, s. 4; 1968-69, c. 46, s. 4.

R.S.O. 1970,  
c. 72

Local  
administra-  
tion

**5.** A municipality or the council of a band may employ homemakers or nurses, or both, for the purposes of this Act or may enter into an agreement with any person or organization for the furnishing of any services which may be provided under this Act for such persons as may be agreed upon. 1968-69, c. 46, s. 5.

Home-  
makers  
services

**6.** The services of a homemaker may be furnished under this Act,

- (a) for households in which there is a child who might otherwise be cared for in other than his own home during the temporary absence, illness or convalescence of his mother or other person in whose charge he is, where an adult is available to furnish any care that the child may require when the homemaker is not on duty; or
- (b) for a person who is elderly, handicapped, ill or convalescent and who requires such services on a part time or visitation basis in order that he may remain in his own home, where an adult is available to furnish any care that he may require when the homemaker is not on duty. R.S.O. 1960, c. 173, s. 6.

Nurses  
services

**7.** The services of a nurse may be furnished under this Act on a visitation basis in the home of a person who is elderly, handicapped, ill or convalescent, where a physician certifies that such services are necessary to enable the person to remain in his own home or to make possible his return to his home from a hospital or other institution. R.S.O. 1960, c. 173, s. 7.

Application  
for services

**8.** Application for the services of a homemaker or a nurse under this Act shall, where the person applying for the services resides,

- (a) in a municipality, be made to the municipal welfare administrator;

- (b) on the reserve of a band, be made to the welfare administrator of the band; or
- (c) in territory without municipal organization, be made to the regional welfare administrator of that territory. 1968-69, c. 46, s. 6.

**9.**—(1) Where the services of a homemaker or nurse are furnished under this Act, the person who has applied therefor shall pay the fees for such services for so long as and to the extent that his financial circumstances permit as determined by the regulations. R.S.O. 1960, c. 173, s. 9 (1). Payment for services

(2) Where the person's financial circumstances as determined by the regulations do not permit him to pay in full the fees for such services, they may, with the approval of the regional welfare administrator, be paid in whole or in part by the municipality or council of the band, as the case may be, in which case an amount determined by the regulations shall be reimbursed to the municipality or council of the band by the Province of Ontario in accordance with the regulations or, where the applicant resides in territory without municipal organization, the services may, with the approval of the regional welfare administrator, be paid for by the Province of Ontario in accordance with the regulations. 1968-69, c. 46, s. 7. Idem

**10.** The provincial contribution to the cost of furnishing services under this Act and the expenses of the administration of this Act and the regulations are payable out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 173, s. 10. Moneys for purposes of Act

**11.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) defining homemaking services and nursing services;
- (b) prescribing the qualifications of homemakers and nurses;
- (c) establishing courses of instruction for homemakers and providing for the granting of certificates to those who have satisfactorily completed the course of instruction;
- (d) adding to or extending the conditions under which services may be furnished;
- (e) adding to or extending the classes of persons to whom services may be furnished;
- (f) prescribing the manner of computing the amount of reimbursement by the Province of Ontario to a municipality or the council of a band under section 9;



- (g) prescribing residence qualifications for applicants or recipients;
  - (h) defining “residence”, “reside” and similar expressions;
  - (i) prescribing the conditions, terms and manner under which claims may be submitted by municipalities and councils of bands to the Province of Ontario for reimbursement of moneys under section 9;
  - (j) prescribing maximum fees for services to which the Province of Ontario may contribute;
  - (k) prescribing the maximum financial circumstances of applicants for or recipients of services to which the Province of Ontario may contribute to the cost;
  - (l) providing for and requiring inspection of the records and accounts of municipalities and councils of bands that pertain to cases under this Act to which the Province of Ontario may contribute to the cost;
  - (m) prescribing forms and providing for their use;
  - (n) respecting any matter deemed necessary or advisable for the effective carrying out of the provisions of this Act. R.S.O. 1960, c. 173, s. 11; 1968-69, c. 46, s. 8, *amended*.
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## CHAPTER 204

## The Homes for Retarded Persons Act

## 1. In this Act,

Interpre-  
tation

- (a) “approved corporation” means a corporation approved under section 2;
- (b) “approved home” means a home for retarded persons approved under section 3;
- (c) “corporation” means a corporation without share capital having objects of a charitable nature,
  - (i) to which Part III of *The Corporations Act* applies, R.S.O. 1970,  
c. 89
  - or
  - (ii) that is incorporated under a general or special Act of the Parliament of Canada;
- (d) “home for retarded persons” means a building maintained and operated by an approved corporation for the residential accommodation of retarded persons, but does not include,
  - (i) a children’s institution under *The Children’s Institutions Act*, R.S.O. 1970,  
c. 66
  - (ii) a charitable institution under *The Charitable Institutions Act*, R.S.O. 1970,  
c. 62
  - (iii) a children’s boarding home that is registered under *The Children’s Boarding Homes Act*, R.S.O. 1970,  
c. 65
  - (iv) a home, institution or other place of accommodation provided by a children’s aid society under *The Child Welfare Act*, R.S.O. 1970,  
c. 64
  - (v) a day nursery established and operated under *The Day Nurseries Act* or any predecessor thereof, R.S.O. 1970,  
c. 104
  - (vi) a house that is registered under *The Maternity Boarding Houses Act*, R.S.O. 1970,  
c. 264
  - (vii) a psychiatric facility under *The Mental Health Act*, R.S.O. 1970,  
c. 269
  - (viii) a private hospital under *The Private Hospitals Act*, R.S.O. 1970,  
c. 361
  - (ix) a children’s mental health centre under *The Children’s Mental Health Centres Act*, R.S.O. 1970,  
c. 68
  - (x) a hospital under *The Public Hospitals Act*, R.S.O. 1970,  
c. 378
  - (xi) a sanatorium under *The Sanatoria for Consumptives Act*, R.S.O. 1970,  
c. 422
- (e) “Minister” means the Minister of Social and Family Services;

- (f) “provincial supervisor” means a child welfare supervisor or a welfare institutions supervisor, and includes any other employee of the Department of Social and Family Services who is designated by the Minister as a provincial supervisor for the purposes of this Act;
- (g) “regulations” means the regulations made under this Act;
- (h) “residential accommodation” means accommodation for the board and lodging of retarded persons;
- (i) “retarded person” means a person in whom there is a condition of arrested or incomplete development of the mind as verified by objective psychological or medical findings, and whose best interests would be served by admission to an approved home. 1966, c. 65, s. 1, *amended*; 1968, c. 51, s. 1.

Approval  
of cor-  
porations

**2.** The Lieutenant Governor in Council may approve any corporation for the purposes of this Act. 1966, c. 65, s. 2.

Approval  
of homes

**3.** The Lieutenant Governor in Council may approve any home for retarded persons for the purposes of this Act and such approval may take effect on any date fixed by the Lieutenant Governor in Council that is prior to the date on which the approval is given, but in no case shall the date on which the approval takes effect precede the date of the approval given under section 2 to the corporation maintaining and operating the home for retarded persons. 1966, c. 65, s. 3; 1968, c. 51, s. 2.

Prohibitions

**4.—(1)** No approved corporation shall,

- (a) maintain and operate any home for retarded persons until the home has been approved under section 3;
- (b) change its corporate name under *The Corporations Act* or the name of any approved home maintained and operated by it without the approval in writing of the Minister;
- (c) erect a new building to be maintained and operated as a home for retarded persons until the site and plans thereof have been approved in writing by the Minister or erect an addition to an existing building to be maintained and operated as a home for retarded persons until the plans thereof are approved in writing by the Minister;
- (d) purchase or otherwise acquire any building to be maintained and operated as a home for retarded persons without the approval in writing of the Minister; or

R.S.O. 1970,  
c. 89

- (e) change the site of, sell or otherwise dispose of any part of, or structurally alter, any approved home in respect of which the approved corporation has received payment of a grant under section 5 or 6 without the approval in writing of the Minister.

(2) No by-law of an approved corporation with respect to an approved home has effect until it is approved in writing by the Minister. 1966, c. 65, s. 4. By-laws

**5.** When the site and plans of a new building or the plans of an addition to an existing building to be maintained and operated or maintained and operated, as the case may be, as a home for retarded persons have been approved by the Minister under clause *c* of subsection 1 of section 4, the Lieutenant Governor in Council may, out of the moneys appropriated therefor by the Legislature, direct payment to the approved corporation erecting the new building or the addition of an amount equal to the cost to the approved corporation of the new building or the addition, but not exceeding an amount based upon the bed capacity of the new building or the addition at the rate of \$5,000 per bed. 1966, c. 65, s. 5. Construction grants

**6.** When the acquisition of a building to be maintained and operated as a home for retarded persons has been approved by the Minister under clause *d* of subsection 1 of section 4, the Lieutenant Governor in Council may, out of the moneys appropriated therefor by the Legislature, direct payment to the approved corporation acquiring the building of an amount equal to the cost to the approved corporation of the acquisition, but not exceeding an amount based on the bed capacity of the building at the rate of \$1,200 per bed. 1966, c. 65, s. 6. Acquisition grants

**7.** In computing the cost to an approved corporation of erecting a new building or an addition to an existing building under section 5 or of acquiring a building under section 6, the computation shall include only expenditures directly referable to the establishment or provision of residential accommodation for retarded persons and shall be computed in accordance with the regulations. 1966, c. 65, s. 7. Grants for residential accommodation only

**8.** There shall be paid to an approved corporation, out of moneys appropriated therefor by the Legislature, an amount equal to 80 per cent of the cost, computed in accordance with the regulations, of residential accommodation provided in an approved home that is maintained and operated by the corporation for persons who are not wards of the Crown or wards of a children's aid society under *The Child Welfare Act*. 1968, c. 51, s. 3. Maintenance and operating grants  
R.S.O. 1970, c. 64



Inspection  
of approved  
homes

**9.**—(1) A provincial supervisor shall be given access to and inspect every approved home, and shall examine the books of account and any other records of the approved home at least once each year, but he shall be given access to and may inspect any such approved home or examine the books of account and the other records at any time.

Idem,  
approved  
corporations

(2) A provincial supervisor shall be given access to any approved corporation's books of account and other records that pertain to its approved homes and he may inspect such books of account and other records at any time. 1966, c. 65, s. 10.

Suspension  
and  
revocation  
of approvals

**10.** Any approval given under this Act may be suspended by the Minister or revoked by the Lieutenant Governor in Council at any time. 1966, c. 65, s. 11.

Regulations

**11.** The Lieutenant Governor in Council may make regulations,

- (a) specifying the corporations and the homes for retarded persons that are approved for the purposes of this Act;
- (b) prescribing rules governing approved homes and the conduct of the persons residing therein and the staffs thereof;
- (c) governing the admission of retarded persons to approved homes and the kinds of services that are to be provided therein;
- (d) prescribing the qualifications and duties of the members of the staffs of approved homes;
- (e) requiring and prescribing medical and other related or ancillary services that are to be provided for the persons residing in approved homes;
- (f) governing applications by approved corporations for payments under this Act, and prescribing the method, time and manner of payment;
- (g) prescribing the manner of computing costs to approved corporations for the purposes of sections 7 and 8;
- (h) prescribing the records to be kept by approved corporations and approved homes, the claims and returns to be made to the Minister by approved corporations and the method, time and manner in which such claims and returns shall be made, and providing penalties for late claims or returns;
- (i) providing for the recovery by an approved corporation or Ontario from the person or persons in whose charge a retarded person is or from the estate of such person or persons of any amount paid by the approved corporation or by Ontario to the approved corporation for the

cost of the residential accommodation of the person in an approved home, and prescribing the circumstances and the manner in which any such recovery may be made;

- (*j*) prescribing additional duties of provincial supervisors;
  - (*k*) prescribing forms and providing for their use;
  - (*l*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 65, s. 12; 1968, c. 51, s. 5.
-



CHAPTER 205

The Homes for Special Care Act

**1.** In this Act, Interpre-  
tation

- (a) “home for special care” means a home for the care of persons requiring nursing, residential or sheltered care;
- (b) “Minister” means the Minister of Health;
- (c) “regulations” means the regulations under this Act;
- (d) “resident” means a person received and lodged in a home for special care under this Act. 1964, c. 39, s. 1.

**2.** The Minister is responsible for the administration of this Act. 1964, c. 39, s. 2. Administra-  
tion

**3.—(1)** The Lieutenant Governor in Council may establish one or more homes for special care. Establish-  
ment of  
homes

(2) The Lieutenant Governor in Council may designate the name by which any home for special care established under subsection 1 shall be known. 1964, c. 39, s. 3. Idem

**4.—(1)** The Lieutenant Governor in Council may approve all or any part of any institution, building or other premises or place as a home for special care. Approval  
of homes

(2) The Minister may make grants out of moneys that are appropriated therefor by the Legislature to homes for special care that he has approved under subsection 1 in such manner, in such amounts and under such conditions as are prescribed by the regulations. 1964, c. 39, s. 4. Aid to  
approved  
homes

**5.—(1)** The Minister may license homes for special care that have not been established under section 3 or have not been approved under section 4, and he may renew or cancel such licences upon such terms and conditions as the regulations prescribe. Licensing  
of homes

(2) The fee for the licence mentioned in subsection 1 and the renewal thereof shall be that prescribed by the regulations. Fee

(3) The Minister may pay such amounts for the care and maintenance of residents in homes licensed under this section as are prescribed by the regulations. 1964, c. 39, s. 5. Payments  
for care  
and main-  
tenance



R.S.O. 1970,  
c. 269, may  
be made  
applicable  
to homes

**6.** The Lieutenant Governor in Council may designate any provision of *The Mental Health Act* or of the regulations thereunder as being applicable to any home for special care. 1964, c. 39, s. 6, *amended*.

Regulations

**7.** The Lieutenant Governor in Council may make regulations with respect to homes for special care for,

- (a) their construction, location, alteration, equipment, safety, maintenance and repair;
- (b) their inspection, control, government, management, conduct, operation and use;
- (c) their administrators and other officers and staffs and the powers and duties thereof;
- (d) their classifications, grades and standards, and the classification of residents, and regulating and prescribing the rates and charges for residents, and prescribing the liability therefor;
- (e) the admission, treatment, care, conduct, control, custody and discharge of residents or of any class of residents;
- (f) prescribing the classes of grants to homes approved under section 4 and the methods of determining the amounts of grants, and providing for the manner and times of payment and the suspension and withholding of grants and for the making of deductions from grants;
- (g) providing for the licensing of homes for special care under section 5 and the renewal and cancellation thereof, and prescribing the fees payable for such licences;
- (h) prescribing the amounts to be paid by the Minister for the care and maintenance of residents in homes for special care licensed under section 5;
- (i) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1964, c. 39, s. 7; 1968-69, c. 47, s. 1.

Expenses

**8.** The expenses of the administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1964, c. 39, s. 8, *amended*.

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## CHAPTER 206

## The Homes for the Aged and Rest Homes Act

**1.** In this Act,Interpre-  
tation

- (a) “band”, “council of the band” and “reserve” have the same meaning as in the *Indian Act* (Canada); R.S.C. 1952,  
c. 149
- (b) “Director” means the Director of the Homes for the Aged Branch of the Department of Social and Family Services;
- (c) “home” means a home for the aged established and maintained under this Act or a rest home established and maintained under this Act;
- (d) “joint home” means a home of two or more municipalities or councils of bands, as the case may be;
- (e) “last revised assessment rolls as equalized” means last revised assessment rolls as revised and equalized by the Department of Municipal Affairs;
- (f) “Minister” means the Minister of Social and Family Services;
- (g) “municipality” means a county, city or separated town, but in a territorial district “municipality” means a city, town, village or township;
- (h) “private-home care” means care and maintenance provided in a private residence;
- (i) “provincial supervisor” means a regional welfare administrator or a welfare institutions supervisor or a field worker of the Department of Social and Family Services or any other employee of the Department who is designated by the Minister as a provincial supervisor;
- (j) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 174, s. 1; 1966, c. 66, s. 2; 1968, c. 52, s. 1; 1968 69, c. 48, s. 1.

**2.**—(1) The Director shall exercise general supervision over the administration of this Act and the regulations and carry out such other duties as are assigned to him by this Act or the regulations.

Director's  
function

(2) Where the Director is absent or there is a vacancy in the office, the powers and duties of the Director shall be exercised and

Absence,  
etc.

performed by such employee of the Department of Social and Family Services as the Minister designates.

Delegation  
of functions

(3) The Director, with the consent in writing of the Deputy Minister of Social and Family Services, may authorize any employee or class of employee of the Department of Social and Family Services to exercise and discharge any of the powers conferred or the duties imposed upon the Director under this Act or the regulations. 1968-69, c. 48, s. 2.

Homes for  
the aged not  
in districts,  
establish-  
ment, etc.

**3.**—(1) Except as otherwise provided in subsection 2 or in section 7, every municipality not in a territorial district shall establish and maintain a home for the aged. R.S.O. 1960, c. 174, s. 2 (1); 1966, c. 66, s. 3 (1).

Idem,  
joint homes  
for the  
aged

(2) In lieu of establishing separate homes, the councils of two or more such municipalities may, with the approval in writing of the Minister, enter into an agreement to establish and maintain a joint home for the aged. R.S.O. 1960, c. 174, s. 2 (2); 1966, c. 66, s. 3 (2).

Idem,  
rest homes

(3) Except as otherwise provided in subsection 4 or in section 7, any municipality not in a territorial district may, and any town, village or township that forms part of a county for municipal purposes may, with the prior approval of the council of the county, establish and maintain a rest home.

Idem,  
joint rest  
homes

(4) In lieu of establishing separate rest homes, the councils of two or more municipalities not in a territorial district or the councils of any two or more towns, villages or townships that form part of a county for municipal purposes may, with the approval in writing of the Minister, enter into an agreement to establish and maintain a joint rest home. 1966, c. 66, s. 3 (3).

Homes and  
joint  
homes in  
territorial  
districts

**4.** A municipality that has a population of more than 15,000 and that is located in a territorial district may, with the written approval of the Minister, establish and maintain a home, or the council of any such municipality and the councils of one or more other municipalities in the same territorial district may, with the approval in writing of the Minister, enter into an agreement to establish and maintain a joint home. R.S.O. 1960, c. 174, s. 3; 1968, c. 52, s. 2.

Homes and  
joint homes,  
establish-  
ment by  
Indian  
bands

**5.** The council of the band may,

(a) establish and maintain a home; or

(b) enter into an agreement with the councils of one or more other bands to establish and maintain a joint home,

with the approval in writing of the Minister. 1968, c. 52, s. 3, *amended*.

**6.**—(1) When a by-law authorizing the establishment and maintenance of a home under a board of management has been passed by a majority of the municipalities in a territorial district, all of the municipalities in the district shall contribute to its establishment and maintenance.

Homes in districts; establishment, etc.

(2) When a by-law under subsection 1 is passed, a certified copy thereof shall be transmitted forthwith to the Minister.

Transmission of by-law

(3) Where a home or a joint home is established and maintained under section 4, the municipality or municipalities that establish and maintain it shall be deemed not to be within the territorial district for the purposes of this section and sections 23 to 26. R.S.O. 1960, c. 174, s. 4.

Where home established under s. 4

**7.** Notwithstanding sections 3, 4 and 6, the council of any municipality not having a home and not participating in a joint home may, with the approval in writing of the Minister, enter into an agreement with the council of a municipality having a home, the councils of the municipalities having a joint home, or the board of a home providing for admission thereto and maintenance therein of residents of the municipality. R.S.O. 1960, c. 174, s. 5.

Provision for admission to and care in existing home

**8.**—(1) The council of a municipality establishing and maintaining a home or the councils of the municipalities establishing and maintaining a joint home may appoint from among the members of the council or councils, as the case may be, a committee of management for the home or joint home. R.S.O. 1960, c. 174, s. 6 (1).

Committee of management, appointment

(2) A committee of management, in the case of a home, shall be composed of not fewer than three and not more than five members of the council of the municipality, and, in the case of a joint home, shall be composed of not more than three members of the council of each of the participating municipalities. R.S.O. 1960, c. 174, s. 6 (2), *amended*.

composition

(3) Where a home is established and maintained by a city having a board of control, the members of the committee of management shall be appointed on the recommendation of the board of control, and section 208 of *The Municipal Act* applies in respect of the home. 1961-62, c. 53, s. 1.

recommendation of board of control  
R.S.O. 1970, c. 284

(4) Notwithstanding subsections 1 and 2, where the establishment of a rest home has been approved by the county council, there shall be a committee of management for the rest home. 1966, c. 66, s. 4.

Rest home approved by county must have committee of management

**9.**—(1) The Lieutenant Governor in Council may appoint a board of management, which shall be a corporation, for a home established and maintained under section 5 or 6. R.S.O. 1960, c. 174, s. 7 (1); 1968, c. 52, s. 4 (1).

Board of management, appointment



- composition (2) A board of management shall consist of not more than seven persons residing in the territorial district or on the reserve or reserves as the case may be. R.S.O. 1960, c. 174, s. 7 (2); 1968, c. 52, s. 4 (2).
- powers (3) No site for the home shall be selected by the board without first obtaining the approval of the Minister. 1961-62, c. 53, s. 2.
- Idem (4) The home shall be vested in the board and it shall have charge thereof. R.S.O. 1960, c. 174, s. 7 (4).
- R.S.O. 1970, c. 89 does not apply (5) *The Corporations Act* does not apply to the board. 1968, c. 52, s. 4 (3).
- Trust agreements **10.** Where a municipality that establishes and maintains a home or joint home, or the board of management of a home established and maintained under section 5 or 6 enters into an agreement with a resident of the home to receive, hold and administer real or personal property of the resident in trust for certain purposes, the municipality or board may receive, hold and administer the property for the purposes of the agreement. 1961-62, c. 53, s. 3; 1968, c. 52, s. 5.
- Administrator appointment **11.—**(1) Subject to subsection 2, the council of a municipality that establishes and maintains a home or the councils of the municipalities that establish and maintain a joint home or the board of management of a home shall, with the approval of the Lieutenant Governor in Council, appoint an administrator for the home or joint home who has, in the opinion of the Minister, served satisfactorily as an administrator for a period of at least six months and has successfully completed a course of instruction that is approved by the Minister. 1960-61, c. 35, s. 1 (1), *part*; 1968, c. 52, s. 6 (1).
- Temporary appointment (2) The council of a municipality that establishes and maintains a home or the councils of the municipalities that establish and maintain a joint home or the board of management of a home may appoint a person to act temporarily as administrator of the home or joint home for a period not exceeding one year. 1960-61, c. 35, s. 1 (1), *part*; 1968, c. 52, s. 6 (2).
- Staff, appointment (3) The council of a municipality that establishes and maintains a home, or the councils of the municipalities that establish and maintain a joint home or the board of management of a home may appoint such staff as the administrator requires for the carrying out of his duties. R.S.O. 1960, c. 174, s. 8 (2); 1968, c. 52, s. 6 (3).
- Medical care (4) The council of a municipality that establishes and maintains a home or the councils of the municipalities that establish and maintain a joint home or the board of management of a home shall, with the approval of the Minister, appoint a legally qualified medical practitioner as the physician for the home or

joint home who is responsible for the medical care and services provided to the residents thereof. 1960-61, c. 35, s. 1 (2).

**12.**—(1) A building shall not be acquired, erected or altered for use as a home or joint home until the site and plans therefor have been approved by the Minister.

Site and plans, etc., to be approved

(2) There shall be no change in site and no sale or disposal of any part thereof and no alteration to or in any building or to the grounds of the home or joint home without the approval of the Minister. R.S.O. 1960, c. 174, s. 9.

Idem

**13.**—(1) The council of a municipality having a home, the councils of the municipalities participating in a joint home or the board of management of a home may enter into an agreement with the council of any municipality for connecting the home or joint home with the sewerage system of such municipality.

Agreement for connecting sewerage system

(2) The council of a municipality having a home, the councils of the municipalities participating in a joint home or the board of management of a home may enter into an agreement with The Hydro-Electric Power Commission of Ontario or with the council of any municipality or person owning or operating a waterworks system, or works for the production and supply of electricity for light, heat or power, for the supply of water for domestic purposes and for fire protection or of electricity for light, heat or power purposes at the home or joint home.

Agreement for supplying electric power or water

(3) For the purpose of connecting such home or joint home with any such system or works, any lands or highways may be entered upon, passed over or dug up, sewers constructed, pipes laid down, poles or wires put in place and all work done in or upon such lands and highways as may be necessary, due compensation being made to the owners thereof as provided by *The Municipal Act*. R.S.O. 1960, c. 174, s. 10.

Power to carry necessary works over intervening lands

R.S.O. 1970, c. 284

**14.** Subject to the approval of the Ontario Municipal Board and without the assent of the electors, a municipality may issue debentures for raising such sums as may be necessary for the purchase of a site or for the erection of buildings for a home or joint home, or for the purchase of land to be used in connection therewith, or for any addition to or improvement of such buildings, or for the purpose of any system or works authorized by section 13. R.S.O. 1960, c. 174, s. 11.

Debentures

**15.** The council of a municipality having a home, the councils of the municipalities participating in a joint home or the board of management of a home shall provide such equipment and materials as will enable the residents of the home or joint home to engage in handicrafts and other such occupations. R.S.O. 1960, c. 174, s. 12 (1).

Equipment, etc., for handicrafts

Who may  
be admitted  
and  
maintained

**16.**—(1) Any person,

- (a) who is over the age of sixty years and incapable of supporting himself or unable to care properly for himself;
- (b) who is over the age of sixty years and mentally incompetent and who requires care, supervision and control for his protection, but who is not suitable to be in a psychiatric facility under *The Mental Health Act*;
- (c) who is over the age of sixty years and who requires bed care and general personal nursing services, but does not require care in a hospital; or
- (d) who is under the age of sixty years and who because of special circumstances cannot be cared for adequately elsewhere, if his admission is approved by the Minister,

may be admitted to and maintained in a home for the aged or joint home for the aged by the committee of management or the board of management, as the case may be, upon receipt of,

- (e) an authorization in the prescribed form signed by the head of the council of a city, town, village, township or band or, in a county in which the county council has designated the warden to sign such authorization, by the warden or, in a city having a population of not fewer than 100,000, by such member of the council as the mayor has designated or, where the person resides in unorganized territory, by a regional welfare administrator of the Department of Social and Family Services or any other employee of the Department of Social and Family Services designated by the Minister for the purpose;
- (f) an application in the prescribed form signed by the applicant;
- (g) a consent to inspect assets in the prescribed form signed by the applicant;
- (h) a statement of particulars in the prescribed form signed by the welfare officer of the municipality or band or by a regional welfare administrator of the Department of Social and Family Services or any other employee of the Department of Social and Family Services designated by the Minister for the purpose; and
- (i) a statement in the prescribed form certifying that the applicant is eligible for admission to the home or joint home under clause *a, b, c* or *d* and signed by the physician of the home or joint home. 1960-61, c. 35, s. 2; 1966, c. 66, s. 5 (1); 1968, c. 52, s. 8, *amended*.

R.S.O. 1970,  
c. 269

## (2) Any person,

Idem,  
rest homes

- (a) who is twenty-one or more years of age and who in the opinion of two legally qualified medical practitioners, one of whom is the physician of the home, is in need of long-term maintenance and supervision as prescribed by the regulations; or
- (b) who is under the age of twenty-one years and is eligible under clause *a*, if his admission is approved by the Minister,

may be admitted to and maintained in a rest home or joint rest home by the committee of management or the board of management, as the case may be, upon receipt of,

- (c) an authorization mentioned in clause *e* of subsection 1;
- (d) an application mentioned in clause *f* of subsection 1;
- (e) a consent mentioned in clause *g* of subsection 1;
- (f) a statement mentioned in clause *h* of subsection 1; and
- (g) a statement in the prescribed form certifying that he is eligible for admission to a rest home or joint rest home under clause *a* or *b* and signed by the physicians referred to in clause *a*. 1966, c. 66, s. 5 (2).

**17.** Where in the opinion of the physician of a rest home or joint rest home a resident of the home ceases to be eligible to be maintained therein or where it is in the interest of the welfare of such resident, the resident may be discharged from the home. 1966, c. 66, s. 6.

Discharge  
of residents  
of rest  
homes

**18.**—(1) A provincial judge may, by writing under his hand, commit any person who is over sixty years of age and who is unable to care properly for himself to a home or joint home, and where a person is so committed, the provincial judge shall determine the municipality or reserve in which the person is resident and ensure that the statement mentioned in clause *i* of subsection 1 of section 16 has been completed. R.S.O. 1960, c. 174, s. 14 (1); 1968, c. 52, s. 9, *amended*.

Committal  
by provincial  
judge

(2) If, in his opinion, it is in the interest of the welfare of the person, any provincial judge may, by writing under his hand, rescind any order made under subsection 1. R.S.O. 1960, c. 174, s. 14 (2), *amended*.

Committal  
order may  
be  
rescinded

**19.**—(1) Upon the recommendation of the administrator, any resident of a home or joint home or any person admissible to a home or joint home may, in lieu of being maintained in the home or joint home, be placed in private-home care. R.S.O. 1960, c. 174, s. 15 (1); 1968, c. 52, s. 10; 1968-69, c. 48, s. 3 (1).

Private-  
home care



Province  
to share  
cost

(2) Where a person is placed in private-home care, the Treasurer of Ontario shall pay monthly out of the moneys appropriated therefor by the Legislature to the municipality or to the treasurer of the home or joint home, as the case may be, an amount comprising the percentage of the cost thereof prescribed in the regulations, to be computed in the manner prescribed by the regulations. R.S.O. 1960, c. 174, s. 15 (2); 1968-69, c. 48, s. 3 (2).

Person  
may be  
transferred

(3) A person placed in private-home care may be transferred to the home or joint home at any time. R.S.O. 1960, c. 174, s. 15 (3); 1968-69, c. 48, s. 3 (3).

Person  
considered  
a resident  
of the home

(4) A person placed in private-home care shall for all other purposes be deemed to be a resident of the home or joint home and section 16 applies *mutatis mutandis* to the placing of a person in private-home care. R.S.O. 1960, c. 174, s. 15 (4); 1960-61, c. 35, s. 3; 1968-69, c. 48, s. 3 (4).

In cities  
without  
homes

(5) The council of a city not having a home and not participating in a joint home may appoint one or more persons to administer this section for the city until such time as it has a home or participates in a joint home. R.S.O. 1960, c. 174, s. 15 (5).

Inspection  
of records

**20.** Every home and its books and records shall be open at all reasonable times to inspection by a provincial supervisor. 1968-69, c. 48, s. 4.

Affidavits

**21.** A public welfare administrator or public welfare commissioner of a county, city, separated town, town, village, township or band, or any of his assistants authorized by the municipal council or the council of the band, as the case may be, and a regional welfare administrator of the Department of Social and Family Services and any other employee of the Department of Social and Family Services designated by the Minister under this Act has power to take affidavits and statutory declarations for the purpose of this Act in the same manner and to the same extent as a commissioner for taking affidavits in Ontario. R.S.O. 1960, c. 174, s. 17; 1960-61, c. 35, s. 4; 1968, c. 52, s. 12.

Responsi-  
bility for  
payment

**22.—(1)** A resident of a home or joint home is responsible for the payment of the cost of his maintenance, and the cost shall be paid or recovered only out of that portion of his income and assets that is available therefor as determined under the regulations. 1961-62, c. 53, s. 4.

Recovery of  
maintenance  
costs

(2) A municipality having a home or participating in a joint home or having an agreement under section 7 or the board of a home may recover in a court of competent jurisdiction from a person who was or is a resident of the home or joint home or, in the event of his death, from his estate, all or any part of the cost of his maintenance that has not been paid under subsection 1. R.S.O. 1960, c. 174, s. 18 (2).

**23.**—(1) The cost of maintaining a home established under section 6 shall be defrayed in each year by the municipalities in the territorial district in proportion to the amounts of their assessments according to their assessment rolls as revised and equalized in the immediately preceding year. R.S.O. 1960, c. 174, s. 19 (1); 1960-61, c. 35, s. 5 (1).

Maintenance  
of homes in  
districts

(2) For the purposes of this Act, the Department of Municipal Affairs shall in each year revise and equalize the assessment rolls of the municipalities in each territorial district. R.S.O. 1960, c. 174, s. 19 (2); 1960-61, c. 35, s. 5 (2).

Assessment  
to be  
revised and  
equalized

(3) The board of management of a home established under section 6 shall in each year apportion the amount that it estimates will be required to defray its expenditures for that year among the municipalities in the district, and shall on or before the 25th day of February notify the clerk of each such municipality of the amount to be provided by that municipality. R.S.O. 1960, c. 174, s. 19 (3); 1968, c. 52, s. 13.

Estimates  
and appor-  
tionment

(4) In preparing the estimates, the board may provide for a reserve for working funds, but the amount of the reserve in a year shall not exceed 15 per cent of the total estimates of the board for the year. 1960-61, c. 35, s. 5 (3).

Operating  
reserve

(5) Each such municipality shall include the amount required to be provided by it under this section in its estimates for the then current year and shall levy and collect the amount in like manner as taxes and pay the amount to the board of management on demand. R.S.O. 1960, c. 174, s. 19 (4).

Levy and  
collection

(6) Where in any year the last revised assessment rolls of the municipalities in the district are not equalized by the Department of Municipal Affairs under subsection 2 before the 10th day of February, the board of management may apportion the amount that it estimates to be required in proportion to the amounts of their assessments most recently equalized, and in that case shall reapportion the amount and make the necessary adjustments after the equalization is completed. R.S.O. 1960, c. 174, s. 19 (5); 1960-61, c. 35, s. 5 (4).

Where  
assessments  
not  
equalized  
in time

(7) Where in any year the last revised assessment rolls of the municipalities in a district are revised and equalized and have been appealed, the board of management may apportion the amount that it estimates to be required in proportion to the amounts of their assessment as revised and equalized, and in that case shall reapportion the amount and make the necessary adjustments in accordance with the decision of the Ontario Municipal Board or the judgment of a court. R.S.O. 1960, c. 174, s. 19 (6).

Where  
equalized  
assessment  
appealed

Power of district homes to borrow for current expenditures

(8) Subject to subsection 9, the board of management of a home established under section 6 may borrow from time to time by way of a promissory note such sums as the board considers necessary to meet the current expenditures of the board until the current revenue is received.

Maximum borrowings

(9) The amount that may be borrowed at any one time for the purpose mentioned in subsection 8 together with the total of any similar borrowings that have not been repaid shall not exceed 25 per cent of the estimated current revenue of the board for the year.

Idem

(10) Until the estimates of the board for the current year under this section have been determined, the limitation upon borrowing prescribed in subsection 9 shall be temporarily calculated upon 25 per cent of the estimates for the board determined for the next preceding year. 1968-69, c. 48, s. 5.

Capital cost of homes in districts

**24.—**(1) The cost of establishing a new home under section 6 in a district or of an addition to or extension of a home established under that section shall be defrayed by the municipalities in the district in proportion to the amounts of their assessments according to their last revised assessment rolls as equalized.

Provincial subsidy

(2) To assist in defraying the cost of establishing such new home or the addition to or extension of such existing home, the Lieutenant Governor in Council may direct payment out of the moneys appropriated therefor by the Legislature of such amount as he determines in accordance with the regulations and based upon the proportion of such cost that is allocated to the unorganized parts of the territorial district in which the home is established.

Apportionment

(3) The board of management shall apportion the amount that it estimates will be required to establish the new home or the addition to or extension of the existing home among the municipalities in the district and shall notify the clerk of each such municipality of the amount to be provided by that municipality.

Raising of funds

(4) Each such municipality shall, within ninety days after receipt of the notice, determine the method it will use in raising the amount required to be provided by it, and shall take such steps as are necessary to carry the determination into effect and shall raise the amount and pay it over to the board of management of the home. R.S.O. 1960, c. 174, s. 20.

Alternative method of raising funds

**25.—**(1) The Ontario Municipal Board, upon the application of the council or one or more of the municipalities in the territorial district, may by order,

- (a) authorize one of the municipalities in the district to raise the whole amount required by the issue of its debentures; or

- (b) authorize two or more of the municipalities in the district to raise the whole amount required by the issue of their debentures in such amounts as the Ontario Municipal Board orders,

and thereupon the municipality or municipalities shall raise the whole amount required by the issue of debentures and shall pay the proceeds to the board of management of the home, and in such case subsection 4 of section 24 does not apply.

(2) Where debentures are issued to provide the whole amount required as provided in subsection 1, the board of management shall in each year during the currency of the debentures apportion the amount that will be required in that year to pay the amounts of principal and interest on the debentures among the municipalities in the district in proportion to the amounts of their assessments according to their last revised assessment rolls as equalized, and shall include the amount to be provided by each such municipality as a separate item in its estimates submitted to the clerk of the municipality under subsection 2 of section 23, and in such case subsections 3 and 5 of that section apply.

Apportionment of carrying charges

(3) The board of management shall in each year distribute the moneys received under subsection 2 to the municipality that issued the debentures or, where two or more municipalities issued the debentures, to such municipalities in the same proportion as the amount raised by each such municipality bore to the total amount raised. R.S.O. 1960, c. 174, s. 21.

Distribution of carrying charges

**26.**—(1) Where before the 1st day of April, 1954, a new home under section 6 was established or an addition to or an extension of an existing home under that section was made, the board of management, upon the request expressed by resolutions of a majority of the councils of the municipalities in the territorial district, shall apply to the Ontario Municipal Board for an order providing that subsections 2 and 3 shall apply in respect of the cost incurred in respect of the new home or the addition or extension.

Capital cost of homes established or altered before April 1, 1954

(2) Where the Ontario Municipal Board makes an order under subsection 1,

Idem

- (a) the board of management shall determine the annual amount that would have been required to pay the annual amounts of principal and interest if debentures, payable in annual instalments with interest at 5 per cent per annum for a term of twenty years, had been issued by one municipality to finance the cost of the establishment and erection of the new home or the addition to or extension of the existing home; and



- (b) the board of management shall in each year during the remainder of the term of twenty years apportion the annual amount so determined among the municipalities in the district in proportion to the amounts of their assessments according to their last revised assessment rolls as equalized, and shall include the amount to be provided by each such municipality as a separate item in its estimates submitted to the clerk of the municipality under subsection 2 of section 23, and in such case subsections 3 and 5 of that section apply.

Distribution

(3) The board of management shall in each year distribute the moneys received to the municipalities in the district that contributed to the cost of the new home or the addition or extension in the proportion that the contribution of each such municipality to the cost bore to the total of the contributions of all such municipalities to the cost. R.S.O. 1960, c. 174, s. 22.

Provincial  
subsidy on  
capital  
expenditures

**27.**—(1) When the Minister grants his approval under section 12 to the acquisition, erection or alteration of a building for use as a home or joint home, or to an alteration to or in any building or to the grounds of the home or joint home or when the home or joint home incurs such other capital expenditures as are prescribed in the regulations, the Lieutenant Governor in Council may direct payment out of moneys appropriated therefor by the Legislature of an amount to be computed in accordance with the regulations not exceeding 50 per cent of the cost thereof to the treasurer of the home or joint home. R.S.O. 1960, c. 174, s. 23 (1).

Idem

(2) Where a home is established and maintained under section 6, in addition to the amount payable under subsection 1, the Lieutenant Governor in Council may direct payment of the proportion that is allocated by the regulations to the unorganized parts of the territorial district of the capital expenditure in respect of which a payment has not been made under subsection 2 of section 24. 1961-62, c. 53, s. 5.

When  
payable

(3) Payments under subsection 1 in respect of a new building or the alteration of a building by an addition or extension may be made either when the building or alteration is completed and ready for occupancy or from time to time during the construction thereof in the manner prescribed by the regulations. R.S.O. 1960, c. 174, s. 23 (2).

What to be  
included and  
excluded  
in com-  
puting cost

(4) In computing the amount of the cost of the new building, or the alteration of a building by an addition or extension for the purposes of subsection 1, the cost of equipment and furnishings may be included, but the cost of any land in excess of eight acres and the cost of any barns or other similar out-buildings shall not be included. R.S.O. 1960, c. 174, s. 23 (3); 1960-61, c. 35, s. 6.

**28.** There shall be paid monthly out of the moneys appropriated therefor by the Legislature to the treasurer of every home and joint home an amount equal to the percentage prescribed in the regulations of any operating or maintenance cost of the home or joint home computed in the manner prescribed in the regulations. R.S.O. 1960, c. 174, s. 24.

Provincial  
subsidy on  
operating  
costs

**29.** There shall be paid monthly out of the moneys appropriated therefor by the Legislature to the treasurer of every home and joint home an amount per day computed in the manner prescribed in the regulations as the cost of maintenance for each person in the home or joint home whose residence before admission to the home or joint home was in territory without municipal organization. R.S.O. 1960, c. 174, s. 25.

Provincial  
subsidy for  
residents of  
unorganized  
territory

**30.—(1)** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the location, site, size, design and construction of buildings to be acquired, erected or altered for use as homes or joint homes and the facilities and equipment to be provided therein;
- (b) governing the qualifications of administrators and members of staffs of homes and joint homes and prescribing their powers and duties;
- (c) prescribing the classes of persons who are in need of long-term maintenance and supervision in rest homes;
- (d) prescribing additional duties of the Director;
- (e) prescribing rules governing homes and joint homes, the residents therein and the staffs thereof;
- (f) prescribing the records that shall be kept under this Act and the returns that shall be made to the Minister;
- (g) designating the medical services that shall be provided for residents of homes and joint homes;
- (h) governing the determination of the portion of the income and assets of a resident of a home or joint home that is available for the purpose of paying the cost of his maintenance;
- (i) prescribing the percentage of any operating or maintenance cost of homes and joint homes that will be paid by Ontario under section 28,
- (j) prescribing the manner of computing the operating and maintenance costs of homes and joint homes for the purposes of section 28;
- (k) prescribing the manner of computing the proportion of costs in respect of homes established and maintained under section 6 that shall be allocated to the unorgan-

ized parts of territorial districts for the purposes of sections 24 and 27;

- (l) prescribing capital expenditures and the manner of computing the amount of grants for the purposes of subsection 1 of section 27 and the method, time and manner of payment under subsection 3 of section 27;
- (m) providing for the admission to homes and joint homes of residents of unorganized territory and prescribing the manner of computing the cost of maintenance of such persons in such homes;
- (n) prescribing the conditions that shall be maintained in private residences in which persons may be placed for private-home care;
- (o) providing for the inspection of private residences in which persons may be placed for private-home care;
- (p) prescribing the percentage of any cost of maintenance of persons placed in private-home care to be paid by Ontario and the method, time and manner of payment;
- (q) prescribing the manner of computing the cost of maintenance of persons placed in private-home care for the purposes of section 19;
- (r) fixing the term of office of the members of boards of management of homes established under section 5 or 6 and requiring the chairmanship of boards of management to change hands at prescribed intervals;
- (s) prescribing forms and providing for their use;
- (t) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 174, s. 26 (1); 1961-62, c. 53, s. 6; 1966, c. 66, s. 7; 1968, c. 52, s. 14; 1968-69, c. 48, s. 6, *amended*.

Division of  
territorial  
districts

(2) The Lieutenant Governor in Council may divide any territorial district into two parts for the purposes of this Act, in which event each of such parts shall be deemed to constitute a territorial district for the purposes of this Act. R.S.O. 1960, c. 174, s. 26 (2).

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CHAPTER 207

The Horticultural Societies Act

1. In this Act,

(a) “board” means a board of directors elected under this Act;

(b) “Department” means the Department of Agriculture and Food;

(c) “Minister” means the Minister of Agriculture and Food;

(d) “society” means a horticultural society organized under this Act or under any former Act having a similar purpose;

(e) “Superintendent” means the Superintendent of Horticultural Societies. R.S.O. 1960, c. 175, s. 1, *amended*.

Interpre-  
tation
2. The Minister may decide all matters of doubt or dispute arising in the operation or construction of this Act and his decision is final. R.S.O. 1960, c. 175, s. 2.

Minister  
to decide  
matters of  
dispute
- 3.—(1) A society may be organized in any city, town, town-  
ship or village, or in a police village having a population of not less  
than 200, or in any two of them that adjoin each other.

Where  
societies  
may be  
organized

(2) In a city having a population of not less than 100,000 there  
may be two societies and for each additional 100,000 of popula-  
tion there may be an additional society. R.S.O. 1960, c. 175, s. 3.

Additional  
societies
4. The mode of organization of a society shall be as follows:

Organiza-  
tion

1. An agreement in the form prescribed by the Minister  
shall be signed by the persons who desire to organize a  
society and who are resident in the municipality or  
municipalities in which the society is to be organized.

Agreement

2. In the case of a city having a population of not less than  
30,000, the number of persons signing the agreement  
shall be at least 125; in the case of a city having a  
population of less than 30,000, the number shall be at  
least 100; in the case of a town having a population of  
not less than 2,000, the number shall be at least 60; and  
in the case of a town having a population of less than  
2,000 and a township, village or police village, the

Signatories  
to agree-  
ment



number shall be at least 25; but, for the purposes of this paragraph, where a society is to be organized in two adjoining municipalities, the society shall be deemed to be in the larger of such municipalities.

Fee payable  
by signa-  
tures

3. Every person who signs the agreement shall pay to the person having charge thereof the sum of \$1 and all such sums become the property of the society upon its organization, and where no society is organized the sums shall be repaid to the persons entitled thereto.

Organiza-  
tion  
meeting;  
call

4. Within two months after the date of the first signature to the agreement, the agreement shall be transmitted to the Superintendent who may, with the approval of the Minister, authorize any person to call a meeting for the organization of a society.

when to be  
held

5. The organization meeting shall be held during the month of January or at such other time as the Superintendent authorizes, upon at least one week's notice published in a newspaper having a general circulation in the municipality.

quorum

6. At the organization meeting, and at every regular meeting of a society, ten members constitute a quorum.

President,  
vice-  
presidents,  
auditors,  
directors

7. At the organization meeting, there shall be elected a president, a first vice-president, a second vice-president and two auditors who shall hold office until the next annual meeting, and ten directors, five of whom shall hold office until the next annual meeting and five of whom shall hold office until the next following annual meeting, but, where any officer or director so elected has not paid the sum of \$1 as provided by paragraph 3, he shall pay such sum to the treasurer or secretary-treasurer within two weeks of the election.

Board,  
composi-  
tion

8. The board shall be composed of the president, first vice-president, second vice-president, and the ten directors.

Secretary  
and  
treasurer

9. The board, from among themselves or otherwise, shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure, and the secretary or secretary-treasurer shall be a member of every committee that is appointed by the board.

Bond to be  
furnished by  
treasurer

10. The board may require the treasurer or secretary-treasurer to furnish such bond as is considered necessary to ensure the faithful performance of his duties and the proper administration of all funds belonging to the society coming into his hands and, where no such bond is

required by the board, every member of the board is personally liable for all funds belonging to the society that come into the hands of the treasurer.

11. A report of the organization meeting, certified by the president, the secretary and the person calling the meeting, containing a statement of the number of members and a list of the officers and directors elected or appointed, together with their addresses, shall be sent to the Superintendent by the secretary within one week after the holding of the meeting. R.S.O. 1960, c. 175, s. 4.

Report of  
organiza-  
tion  
meeting

5. Upon the receipt of such report, the Superintendent, with the approval of the Minister, may declare the society to be a society within the meaning of this Act. R.S.O. 1960, c. 175, s. 5.

Declaration  
of society

6. Subject to the approval of the Minister, any two or more societies may combine to form one society on such terms and conditions as the Minister may prescribe. R.S.O. 1960, c. 175, s. 6.

Combina-  
tion of  
societies

7. Upon the petition of not less than twenty-five members of a society, the Minister may dissolve the society or may constitute two or more societies upon such terms and conditions as he considers proper. R.S.O. 1960, c. 175, s. 7.

Dissolution  
of society  
upon  
petition

8.—(1) Every person of the full age of sixteen years or over is entitled to membership in a society.

Persons  
entitled to  
membership

(2) Subject to the by-laws and regulations of a society, a partnership or incorporated company may become a member thereof upon payment of the prescribed fee, but in every such case the partnership or company shall delegate one person to exercise the privileges of membership in the society.

Partnership  
or company  
may be  
member

(3) In every society there shall be an annual membership fee of not less than 50 cents.

Membership  
fee

(4) The fiscal year of every society is the calendar year unless the Minister otherwise authorizes.

Fiscal  
year

(5) Every member in good standing of a society is entitled to vote on all questions coming before a regular or special meeting of the society. R.S.O. 1960, c. 175, s. 8.

Voting of  
members

9.—(1) The object of a society is to encourage interest and improvement in horticulture,

Object

- (a) by holding meetings for instruction and discussion on subjects connected with the theory and practice of horticulture;

- (b) by encouraging the improvement of home and public grounds by the planting of trees, shrubs and flowers, and by otherwise promoting outdoor art and public beautification;
- (c) by interesting juveniles and others in the study of horticulture by the holding of contests and competitions and by such other means as are considered proper;
- (d) by holding exhibitions and awarding premiums for the production of vegetables, plants, flowers, fruits, trees and shrubs;
- (e) by the distribution of seeds, plants, bulbs, flowers, trees and shrubs in ways calculated to create an interest in horticulture; and
- (f) by promoting the circulation of horticultural periodicals.

Expenditure  
of annual  
receipts

(2) A society shall not expend more than one-half of its total annual receipts, other than grants or donations made for specific purposes, upon any one of the projects enumerated in subsection 1, except for the purposes of planting trees, shrubs and plants on public grounds and the promotion of outdoor art and public beautification.

Expenditure  
of funds

(3) None of the funds of a society shall be expended for any purpose not indicated in subsection 1, and a society that contravenes any of the provisions of this section is not entitled to a Government grant for the year in which the contravention occurs, or where the grant for such year has already been paid, for the next following year, subject however to any direction that the Minister may make. R.S.O. 1960, c. 175, s. 9.

Annual  
meeting:

**10.**—(1) Every society shall hold a meeting annually during the month of January or such other month as the Superintendent approves at such time and place as the board determines.

notice

(2) At least one week's notice of every annual meeting shall be given by the publication of a notice of the meeting in a newspaper having a general circulation in the municipality or by mailing a notice of the meeting to each member of the society at the address furnished to the secretary. R.S.O. 1960, c. 175, s. 10.

Procedure

**11.** At an annual meeting the board shall present a report of the activities and accomplishments of the society during the preceding year and the financial statement for the preceding year certified by the auditors on the form prescribed by the Minister, and the officers and other members of the board shall be elected or appointed in the manner provided by section 4, provided that five directors shall be elected at each annual meeting. R.S.O. 1960, c. 175, s. 11.

**12.**—(1) In the event of failure to hold the annual meeting in accordance with this Act or in the event of the number of members of a society on the 1st day of July in any year being less than the number required for organization, the society is not entitled to receive any further Government grant and shall be deemed to be dissolved, subject to any direction of the Minister, and the persons comprising the board during the last year of the existence of the society shall be trustees of the assets of the society and shall deliver to the Superintendent a statement of its assets and liabilities.

Dissolution

(2) The Superintendent may direct the members of the board to pay the debts of the society out of the moneys and other assets remaining in their hands and liquidate any of the assets for such purpose and may direct such members to dispose of any moneys or other assets then remaining in such manner as he determines. R.S.O. 1960, c. 175, s. 12, *amended*.

Payment of debts and disposal of surplus moneys

**13.**—(1) A statement of officers and members and a copy of the financial statement in the form prescribed by the Minister and certified by the president, secretary-treasurer, or secretary and treasurer, and auditors to be true copies shall be forwarded to the Minister within two weeks of the holding of the annual meeting.

Statement to be sent to Minister

(2) The Minister may at any time require a society or any officer of a society to furnish such information regarding the society as he considers necessary or desirable.

Minister may require information

(3) The Minister may require any financial or other statement or information required to be furnished to him to be accompanied by an affidavit of all or any of the officers of the society deposing to its accuracy. R.S.O. 1960, c. 175, s. 13.

Minister may require affidavit certifying

**14.** A meeting of the board shall be called by the secretary upon the direction of the president or of any three members of the board by sending notice thereof to all the members of the board at least three days before the time fixed for the meeting; but a meeting of the board may be held immediately following any annual, regular or special meeting of the society, without notice. R.S.O. 1960, c. 175, s. 14.

Meetings of board

**15.**—(1) Subject to the by-laws and regulations of the society, the board has power to act for and on behalf of the society in all matters.

Powers of board

(2) Five members of the board constitute a quorum.

Quorum

(3) When a vacancy occurs on the board by reason of the death or resignation of any officer or director or otherwise, the remaining members of the board may appoint any member of the society to fill the vacancy. R.S.O. 1960, c. 175, s. 15.

Vacancies



- Meetings      **16.** The board may determine what regular and special meetings of the society shall be held during each year. R.S.O. 1960, c. 175, s. 16.
- By-laws and regulations      **17.** By-laws and regulations of a society may be made, adopted, amended or repealed at any annual or regular meeting of the society or at a special meeting of which at least one week's notice has been given in the manner provided for by subsection 2 of section 10. R.S.O. 1960, c. 175, s. 17.
- Provincial grants      **18.** Every society that has complied with this Act and has furnished the statements and other information required by the Minister is entitled to receive a grant out of the moneys appropriated by the Legislature for such purpose if the membership of the society is not less than that required for organization purposes. R.S.O. 1960, c. 175, s. 18.
- Payment of grants      **19.** Grants shall be paid to societies out of moneys appropriated for the purpose by the Legislature according to the following plan:
1. Every society shall, during the first year of its existence, receive a grant amounting to 50 cents for every paid-up member as of the 1st day of July, but no such grant shall exceed \$75.
  2. Every society that has been in existence for more than one year shall receive a grant amounting to,
    - (a) 25 cents for every paid-up member during the previous year; and
    - (b) one-quarter of the total amount expended by the society during the preceding year for horticultural purposes, in accordance with section 9,but no such grant shall exceed \$500. 1961-62, c. 54, s. 1.
- Municipal grants      **20.** The council of a city, town, village, county or township may grant money to any society organized wholly or partly within its limits. R.S.O. 1960, c. 175, s. 20.
- Inspection of books and accounts      **21.** The Minister may appoint a person to inspect the books and accounts of any society and may empower the person to summon witnesses and enforce the production of documents before him and to take evidence upon oath in regard to such inspection, and every officer of a society shall, when requested, submit the books and accounts thereof to such inspection. R.S.O. 1960, c. 175, s. 21.

**22.** Where the board has reason to believe that a member or other person exhibiting a product at an exhibition at which prizes are offered by the society has committed a fraud in respect of the product, the board may withhold payment or delivery of any prize money or other prize award to the person until the person proves to the satisfaction of the board that no fraud has in fact been committed. R.S.O. 1960, c. 175, s. 22.

Fraud in  
obtaining  
prizes





## CHAPTER 208

### The Hospital Labour Disputes Arbitration Act

**1.—(1)** In this Act,

Interpre-  
tation

- (a) “hospital” means any hospital, sanitarium, sanatorium, nursing home or other institution operated for the observation, care or treatment of persons afflicted with or suffering from any physical or mental illness, disease or injury or for the observation, care or treatment of convalescent or chronically ill persons, whether or not it is granted aid out of moneys appropriated by the Legislature and whether or not it is operated for private gain, and includes a home for the aged;
- (b) “hospital employee” means a person employed in the operation of a hospital;
- (c) “Minister” means the Minister of Labour;
- (d) “party” means the trade union that is the bargaining agent for a bargaining unit of hospital employees, on the one hand, or the employers of such employees, on the other hand, and “parties” means the two of them. 1965, c. 48, s. 1 (1); 1968-69, c. 49, s. 1 (1).

(2) Unless the contrary intention appears, expressions used in this Act have the same meaning as in *The Labour Relations Act*. 1965, c. 48, s. 1 (2). Idem  
R.S.O. 1970,  
c. 232

(3) A central laundry or a central heating plant or a central power plant that is operated exclusively for more than one hospital shall be deemed to be a hospital for the purposes of this Act. 1968-69, c. 49, s. 1 (2). Laundries,  
heating  
plants and  
power  
plants

**2.—(1)** This Act applies to any hospital employees to whom *The Labour Relations Act* applies, to the trade unions and councils of trade unions that act or purport to act for or on behalf of any such employees, and to the employers of such employees. Application  
of Act

(2) Except as modified by this Act, *The Labour Relations Act* applies to any hospital employees to whom this Act applies, to the trade unions and councils of trade unions that act or purport to act for or on behalf of any such employees, and to the employers of such employees. 1965, c. 48, s. 2 (1, 2). Application  
of  
R.S.O. 1970,  
c. 232



When bargaining must resume under this Act

**3.** Where the Minister has informed each of the parties under clause *b* of section 18 of *The Labour Relations Act* that he does not consider it advisable to appoint a conciliation board, or where the report of a conciliation board appointed under clause *a* of that section or of a mediator appointed under section 16 of that Act has been released by the Minister to each of the parties under subsection 5 of section 31 of that Act, and in either case a collective agreement has not been made, the parties shall meet forthwith and bargain in good faith and make every reasonable effort to make a collective agreement. 1965, c. 48, s. 3.

Arbitration

**4.—(1)** Subject to subsection 2, if the parties have not made a collective agreement within seven days after the day on which the Minister informed the parties or released the report as mentioned in section 3, the matters in dispute between them shall be decided by arbitration in accordance with this Act. 1965, c. 48, s. 4 (1); 1968-69, c. 49, s. 3 (1).

Extension of 7-day period

**(2)** The parties by agreement in writing may extend the period of seven days mentioned in subsection 1 for one or more further periods of time, not exceeding a total of thirty days, and thereafter any further extension may be made only with the consent of the Minister. 1965, c. 48, s. 4 (2); 1968-69, c. 49, s. 3 (2).

Appointment of board of arbitration

**5.—(1)** Within seven days after the period of seven days mentioned in section 4 and any extension thereof has elapsed, each of the parties shall appoint to a board of arbitration a member who has indicated his willingness to act. 1965, c. 48, s. 5 (1); 1968-69, c. 49, s. 4.

Third member

**(2)** Within ten days after the day on which the second of the members was appointed, the two members appointed by the parties shall appoint a third member who has indicated his willingness to act, and such third member shall be the chairman.

Failure of party to appoint member

**(3)** Where a party fails to appoint a member of a board of arbitration within the period of seven days mentioned in subsection 1, the Minister, upon the written request of either of the parties, shall appoint such member.

Failure of members to appoint third member

**(4)** Where the two members appointed by or on behalf of the parties fail within ten days after the appointment of the second of them to agree upon the third member, the Minister shall, upon notice in writing of such failure given to him by either of them or by either of the parties, appoint a third member.

Notice of appointment by party

**(5)** As soon as one of the parties appoints a member to a board of arbitration, it shall notify the other party and the Minister of the name and address of the member appointed.

(6) When the three members have been appointed to a board of arbitration, it shall be presumed conclusively that it has been established in accordance with this Act, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, *certiorari*, *mandamus*, prohibition, *quo warranto* or otherwise, to question the establishment of the board or the appointment of any of its members, or to review, prohibit or restrain any of its proceedings.

Privative  
clause

(7) If a person ceases to be a member of a board of arbitration by reason of his resignation, death or otherwise before it has completed its work, the Minister shall appoint a member in his place after consulting the party whose point of view was represented by such person.

Vacancies

(8) If, in the opinion of the Minister, a member of a board of arbitration has failed to enter on or to carry on his duties so as to enable it to render a decision within a reasonable time after its establishment, the Minister may appoint a member in his place after consulting the party whose point of view was represented by such person.

Replacement  
of member

(9) If the chairman of a board of arbitration is unable to enter on or to carry on his duties so as to enable it to render a decision within a reasonable time after its establishment, the Minister may appoint a person to act as chairman in his place.

Replace-  
ment of  
chairman

(10) No person shall be appointed a member of a board of arbitration under this Act who was a member of a conciliation board that dealt with the matters to be decided by arbitration in accordance with this Act.

Certain  
persons  
prohibited  
as members

(11) No person shall be appointed a member of a board of arbitration under this Act who has any pecuniary interest in the matters coming before it or who is acting or has, within a period of six months preceding the date of his appointment, acted as solicitor, counsel or agent of either of the parties.

Idem

(12) Where a board of arbitration has been established and either of the parties complains to the Minister that the board has failed to render a decision within a reasonable time, the Minister may, after consulting the parties and the board, issue whatever order he considers necessary in the circumstances to ensure that a decision will be rendered without delay.

Order to  
expedite  
proceedings

(13) A board of arbitration shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Procedure

(14) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Idem

- Decision (15) The decision of a majority of the members of a board of arbitration is the decision of the board, but, if there is no majority, the decision of the chairman is the decision of the board.
- Powers (16) The chairman and the other members of a board of arbitration established under this Act have, respectively, all the powers of a chairman and the members of a board of arbitration under *The Labour Relations Act*. 1965, c. 48, s. 5 (2-16).
- R.S.O. 1970, c. 232
- Duty of board **6.**—(1) The board of arbitration shall examine into and decide on matters that are in dispute and any other matters that appear to the board necessary to be decided in order to conclude a collective agreement between the parties, but the board shall not decide any matters that come within the jurisdiction of the Ontario Labour Relations Board.
- Board to remain seized of matters (2) The board of arbitration shall remain seized of and may deal with all matters in dispute between the parties until a collective agreement is in effect between the parties.
- R.S.O. 1970, c. 25 not to apply (3) *The Arbitrations Act* does not apply to arbitrations under this Act. 1965, c. 48, s. 6.
- Where agreement reached **7.**—(1) Where, during the bargaining under this Act or during the proceedings before the board of arbitration, the parties agree on all the matters to be included in a collective agreement, they shall put them in writing and shall execute the document, and thereupon it constitutes a collective agreement under *The Labour Relations Act*.
- Where there is failure to make agreement (2) If the parties fail to put in writing the terms agreed upon by them, or if either of them fails to execute the document within seven days after it was executed by the other of them, they shall be deemed not to have made a collective agreement, and section 4 becomes applicable upon either party appointing a member of a board of arbitration and notifying the other party and the Minister of such appointment.
- Decision of arbitration board (3) Where during the bargaining under this Act or during the proceedings before the board of arbitration the parties have agreed upon some matters to be included in the collective agreement and they have so notified the board in writing, the board's decision shall be confined to the matters not agreed upon by the parties and to such other matters that appear to the board necessary to be decided to conclude a collective agreement, and, if, following the rendering of the decision, the parties fail to agree on the terms of a collective agreement within ten days after the release of the decision or within such longer period as may be agreed upon by the parties, the board shall prepare a document giving effect to the agreement of the parties and its decision and shall submit the document to the parties for execution.

(4) Where the parties have not notified the board in writing that, during the bargaining under this Act or during the proceedings before the board of arbitration, they have agreed upon some matters to be included in the collective agreement, the board shall decide all matters in dispute between the parties and such other matters that appear to the board necessary to be decided to conclude a collective agreement, and shall prepare a document giving effect to its decision and shall submit the document to the parties for execution. Idem

(5) The board of arbitration shall, in its decision, fix the time within which the parties shall execute the document. Idem

(6) If the parties or either of them fail to execute the document within such time as is fixed by the decision, the board may order that the document be in effect as though it had been executed by the parties, and the document thereupon constitutes a collective agreement under *The Labour Relations Act*, effective from the day upon which the order was made. Failure to execute agreement  
R.S.O. 1970, c. 232

(7) Except where the parties agree to a longer term of operation, a collective agreement made under this Act remains in force for one year from the day the agreement was executed or ordered to be in effect under subsection 6, as the case may be. Term of agreement

(8) Notwithstanding subsection 7, the board of arbitration may provide, Idem

- (a) where notice was given under section 13 of *The Labour Relations Act*, that the agreement or any of its terms shall be retroactive to such day as the board may fix but not earlier than the day upon which such notice was given; or
- (b) where notice was given under section 45 of *The Labour Relations Act*, that the agreement or any of its terms shall be retroactive to such day as the board may fix but not earlier than the day upon which the previous agreement ceased to operate. 1965, c. 48, s. 7.

**8.**—(1) Notwithstanding anything in *The Labour Relations Act*, no hospital employees to whom this Act applies shall strike and no employer of such employees shall lock them out. Strikes and lock-outs prohibited

(2) Nothing in this section prohibits any suspension or discontinuation for cause of the operations of a hospital or the quitting of employment for cause if the suspension, discontinuation or quitting does not constitute a lock-out or strike. Saving

(3) Sections 65, 66, 82 and 83 of *The Labour Relations Act* apply *mutatis mutandis* to a strike of hospital employees to whom this Act applies or to a lock-out by their employers. 1965, c. 48, s. 8. Unlawful strike or lock-out



Timeliness  
of repre-  
sentation  
applications  
R.S.O. 1970,  
c. 232

**9.—(1)** Notwithstanding section 53 of *The Labour Relations Act*, where a trade union that has been certified as bargaining agent for a bargaining unit of employees of a hospital has given to the employer of such employees notice under section 13 of that Act and the Minister has appointed a conciliation officer or mediator, an application for a declaration that the trade union no longer represents the employees in the bargaining unit determined in the certificate may be made only in accordance with subsection 2 of section 49 of *The Labour Relations Act*.

Idem

(2) Notwithstanding section 53 of *The Labour Relations Act*, where notice has been given under section 45 of that Act by or to a trade union that is the bargaining agent for a bargaining unit of employees of a hospital to or by the employer of such employees and the Minister has appointed a conciliation officer or mediator, an application for certification of a bargaining agent of any of the employees of the hospital in the bargaining unit defined in the collective agreement or an application for a declaration that the trade union that was a party to the collective agreement no longer represents the employees in the bargaining unit defined in the agreement shall not be made after the day upon which the agreement ceased to operate or the day upon which the Minister appointed a conciliation officer or mediator, whichever is later, except in accordance with section 5 or subsection 2 of section 49 of *The Labour Relations Act*, as the case may be. 1965, c. 48, s. 9.

Working  
conditions  
may not be  
altered

**10.** Notwithstanding subsection 1 of section 70 of *The Labour Relations Act*, where notice has been given under section 13 or 45 of that Act by or to a trade union that is the bargaining agent for a bargaining unit of hospital employees to which this Act applies to or by the employer of such employees and no collective agreement is in operation, no such employer shall, except with the consent of the trade union, alter the rates of wages or any other term or condition of employment or any right, privilege or duty of the employer, the trade union or the employees, and no such trade union shall, except with the consent of the employer, alter any term or condition of employment or any right, privilege or duty of the employer, the trade union or the employees, until the right of the trade union to represent the employees has been terminated. 1965, c. 48, s. 10.

Offences

**11.** Except where inconsistent with this Act, sections 85, 86, 87, 88 and 90 of *The Labour Relations Act*, as amended or re-enacted from time to time, apply *mutatis mutandis* under this Act as if such sections were enacted in and form part of this Act. 1965, c. 48, s. 11.

Expenses

**12.** The expenses incurred in the administration of this Act shall be paid out of such moneys as are appropriated therefor by the Legislature. 1965, c. 48, s. 12.

**13.** The Lieutenant Governor in Council may make regula- Regulations  
tions,

- (*a*) providing for and regulating the engagement of experts, investigators and other assistants by boards of arbitration;
  - (*b*) providing for and fixing the remuneration and expenses of chairmen and other members of boards of arbitration;
  - (*c*) prescribing rules of practice and procedure;
  - (*d*) prescribing forms and providing for their use;
  - (*e*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1965, c. 48, s. 13.
-



## CHAPTER 209

## The Hospital Services Commission Act

**1.** In this Act,

- (a) "Board" means the Health Insurance Registration Board established under *The Health Insurance Registration Board Act*;
- (b) "Commission" means the Ontario Hospital Services Commission;
- (c) "future hospital expenses" means the estimated total cost of the insured services made necessary as the result of an injury that will probably be required by a patient after the date of settlement or, where there is no settlement, after the first day of trial, and includes the estimated cost of probable future maintenance, care, diagnosis and treatment in a hospital under section 29;
- (d) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act;
- (e) "past hospital expenses" means the total cost of the insured services made necessary as the result of an injury and provided to a patient up to and including the date of settlement or, where there is no settlement, the first day of trial, and includes the cost of maintenance, care, diagnosis and treatment in a hospital under section 29;
- (f) "regulations" means the regulations made under this Act. R.S.O. 1960, c. 176, s. 1; 1965, c. 49, s. 1; 1967, c. 36, s. 1; 1968, c. 53, s. 1.

Interpre-  
tationR.S.O. 1970  
c. 199

## COMMISSION

**2.** The Commission that was constituted on behalf of Her Majesty in right of Ontario as a corporation without share capital by *The Hospital Services Commission Act, 1956* is continued under the name "Ontario Hospital Services Commission". R.S.O. 1960, c. 176, s. 2; 1965, c. 49, s. 2.

Commission  
continued  
1956, c. 31

**3.—(1)** The Commission shall be composed of not fewer than three and not more than seven persons as the Lieutenant Governor in Council from time to time may determine.

Composition  
of Commis-  
sion



Appoint-  
ment of  
members

(2) The members of the Commission shall be appointed by the Lieutenant Governor in Council and one of them shall be designated as chairman and one of them may be designated as vice-chairman.

Remunera-  
tion

(3) The chairman, the vice-chairman, if any, and the other member or members, as the case may be, of the Commission shall receive such remuneration for their services as the Lieutenant Governor in Council may determine.

Acting  
chairman

(4) In case of the absence or illness of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman or, if none, such member of the Commission as the Commission designates for such purposes shall act as and have the powers of the chairman. R.S.O. 1960, c. 176, s. 3.

Vacancies

4. The Lieutenant Governor in Council may fill any vacancy that occurs from time to time in the membership of the Commission. R.S.O. 1960, c. 176, s. 4.

Quorum

5. A majority of the members of the Commission constitutes a quorum. R.S.O. 1960, c. 176, s. 5.

Officers  
and  
employees

6.—(1) The Commission may, subject to the approval of the Lieutenant Governor in Council,

- (a) establish job classifications and salary ranges for its officers and employees and may appoint, employ and promote its officers and employees in conformity with the classifications and salary ranges so approved; and
- (b) pay supplementary benefits to or for the credit of an officer or employee in addition to the remuneration payable under clause a.

Terms of  
employment

(2) The Commission may establish the terms and conditions of employment for its officers and employees and, if necessary, make any payments required by such terms and conditions.

Employees'  
super-  
annuation  
benefits  
R.S.O. 1970,  
c. 387

(3) *The Public Service Superannuation Act* applies to the permanent staff of the Commission, except the staff members provided for in subsection 4, as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act, and all contributions and credits of persons appointed to the permanent staff of the Commission accumulated under that Act are preserved and continued.

Employees  
transferred  
from O.H.A.

(4) The Commission may enter into agreements to establish and provide for any person transferred on or before the 1st day of January, 1959, to the staff of the Commission from the staff of the Ontario Hospital Association a pension and welfare plan providing for the continuation of benefits the same as or equivalent to those enjoyed by the Association's staff under the agreement for

that purpose dated the 1st day of January, 1954, to which the Association is a party, and may pay the employer's share of the cost of such plan.

(5) The Commission may,

(a) provide a system of cumulative vacation and sick leave credits for the regular attendance of its officers and employees, and such credits shall not be less than the credits provided under *The Public Service Act*; and

Vacation  
and sick  
leave  
credits

R.S.O. 1970,  
c. 386

(b) pay to an officer or employee having more than five years service who ceases to be a member of the staff of the Commission, or to his personal representative or, failing a personal representative, to such other person as the Commission may determine, an amount for his accumulated vacation and sick leave credits computed in the manner prescribed under *The Public Service Act*.

(6) The Commission may credit each person who is transferred to the staff of the Commission with all vacation and sick leave credits accumulated for regular attendance standing to the credit of that person by virtue of any regulation under *The Public Service Act*, and provide for the payment for such credits in accordance with subsection 5.

Transfer  
of credits

(7) All contributions and credits accumulated in the public Service Retirement Fund under *The Public Service Superannuation Act* by any person who becomes a member of the temporary or permanent staff of the Commission shall be transferred to the credit of that person for superannuation purposes.

Retirement  
fund  
benefits  
R.S.O. 1970,  
c. 387

(8) The Commission may grant to an officer or an employee of the Commission leave of absence with or without pay for the purpose of taking a course of training or for any reason considered sufficient by the Commission and, where the leave is with pay, the Commission may in its discretion charge such leave against the sick leave credits of the person.

Leave

(9) Every person who is entrusted by the Commission with the custody or control of money in the course of his employment shall give security in the manner and form provided by *The Public Officers Act*. R.S.O. 1960, c. 176, s. 6.

Security  
by  
officers

R.S.O. 1970,  
c. 382

**7.** It is the function of the Commission and it has power,

Function

(a) to ensure the development throughout Ontario of a balanced and integrated system of hospitals and related health facilities;

(b) to approve the establishment of new and additional hospital and related health facilities;

(c) to determine the amount of and pay grants for hospital construction and maintenance;

R.S.O. 1970,  
cc. 378, 361

- (d) to establish and operate, alone or in co-operation with one or more organizations, institutes and centres for the training of hospital and related personnel;
- (e) to conduct surveys and research programs and to obtain statistics for its purposes;
- (f) to administer and enforce *The Public Hospitals Act* and the regulations thereunder, and *The Private Hospitals Act* and the regulations thereunder;
- (g) to perform such other functions and discharge such other duties as are assigned to it from time to time by the Lieutenant Governor in Council. R.S.O. 1960, c. 176, s. 7.

#### Divisions

### **8.** The Commission may establish,

- (a) an administrative division;
- (b) a division of hospital planning;
- (c) a division of hospital consultant services;
- (d) a division of hospital accounting;
- (e) a division of hospital care insurance;
- (f) a division of research and statistics,

and such other divisions as appear from time to time to be appropriate. R.S.O. 1960, c. 176, s. 8.

#### Moneys

**9.** The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 176, s. 9.

#### Audit

**10.** The books and records of the Commission shall be examined annually by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council designates. R.S.O. 1960, c. 176, s. 10.

#### Annual report

**11.—(1)** The Commission shall make annually a report to the Minister of the affairs of the Commission.

#### Idem

(2) A copy of the report shall be filed by the Minister with the Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly, if it is in session, or, if not, at the next ensuing session. R.S.O. 1960, c. 176, s. 11.

#### Conflict

**12.** In the event of conflict between any provision of this Act and any provision of any other Act, the provision of this Act prevails. R.S.O. 1960, c. 176, s. 12.

## HOSPITAL CARE INSURANCE PLAN

**13.** The Government of Ontario, represented by the Treasurer of Ontario, may enter into and amend from time to time an agreement with the Government of Canada under which Canada will contribute to the cost of the plan of hospital care insurance provided for in this Act in accordance with such terms and conditions as the agreement provides. R.S.O. 1960, c. 176, s. 13.

Ontario-  
Canada  
agreement  
authorized

**14.—(1)** In addition to the functions enumerated elsewhere in this Act, it is the function of the Commission and it has power,

Establish-  
ment of  
plan

- (a) to administer the plan of hospital care insurance established by the regulations of the Commission;
- (b) to govern the standards and inspect the facilities for care, treatment and services in hospitals and nursing homes approved to participate in the plan of hospital care insurance;
- (c) to determine the amounts to be paid to hospitals and to pay hospitals for insured services provided to insured persons under the plan of hospital care insurance and to make retroactive adjustments with hospitals for underpayment or overpayment for insured services according to the cost as determined in accordance with this Act and the regulations;
- (d) to enter into agreements with one or more persons to act for and on behalf of the Commission in the operation of any part of the plan of hospital care insurance;
- (e) to receive and disburse all moneys pertaining to the plan of hospital care insurance;
- (f) to control charges made to all patients by hospitals in Ontario to which payments are made under the plan of hospital care insurance;
- (g) to enter into agreements with hospitals outside Ontario and with other governments and hospital care insurance authorities established by other governments for providing insured services to insured persons;
- (h) to prescribe forms necessary or desirable to carry out the intent and purpose of this Act;
- (i) to borrow money upon the security of its own obligations upon the consent of the Treasurer of Ontario;
- (j) to appoint inspectors with the duty and power to inspect and examine books, accounts and records of hospitals and of employers and collectors for the purpose of obtaining information related to the hospital insurance plan;



- (k) to appoint medical practitioners with the duty and power to examine and obtain information from the medical and other hospital records, reports and accounts of patients who are receiving or have received insured services;
- (l) to withhold payment for insured services for any person who does not, in the opinion of the Commission, medically require such services. R.S.O. 1960, c. 176, s. 14 (1); 1967, c. 36, s. 2.

R.S.O. 1970,  
c. 410, not  
to apply

(2) *The Regulations Act* does not apply to anything done by the Commission under subsection 1. R.S.O. 1960, c. 176, s. 14 (2).

Grants to  
schools of  
nursing, etc.

**15.**—(1) The Commission may make grants to schools approved by the Commission for the education of nurses, technicians and other related personnel for work in hospitals and other health facilities.

Idem

(2) Grants made under subsection 1 may be paid directly to a school or to the board of a hospital under whose supervision the school is operated. 1967, c. 36, s. 3, *part*.

Loans to  
schools of  
nursing, etc.

**16.**—(1) The Commission may make loans to schools approved by the Commission for the education of nurses, technicians and other related personnel for work in hospitals and other health facilities.

Idem

(2) Loans made under subsection 1 may be paid directly to a school or to the board of a hospital under whose supervision the school is operated. 1967, c. 36, s. 3, *part*.

By-laws of  
schools of  
nursing

**17.**—(1) A school of nursing shall pass by-laws respecting such matters as are prescribed by the regulations and submit them to the Commission in accordance with the regulations.

Idem

(2) A school of nursing shall amend or revise its by-laws and submit them to the Commission in accordance with the regulations.

Approval

(3) No by-law or amendment to or revision of a by-law of a school of nursing has any force or effect until it is approved by the Lieutenant Governor in Council upon the recommendation of the Commission to the Minister. 1967, c. 36, s. 3, *part*.

Function  
of Board

**18.**—(1) It is the function of the Board and it has power to determine eligibility and collect premiums for hospital care insurance and perform all functions necessary for the purpose and perform such other duties as are assigned to it by this Act or the regulations.

Premiums

(2) The Board shall pay the premiums collected by it for hospital care insurance into The Hospital Services Commission Fund. 1967, c. 36, s. 4.

**19.** No land, building or other premises or place or any part thereof acquired or used for the purposes of a regional school of nursing or a school, institute or training centre approved by the Commission for the education of registered nurses, registered nursing assistants, medical laboratory technicians, radiological technicians or any other personnel for work in hospitals or other health facilities shall be sold, leased, mortgaged or otherwise disposed of without the approval of the Commission. 1968, c. 53, s. 2.

Disposal  
of nurses  
training  
schools,  
etc.

**20.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations, Regulations

- (a) establishing a plan of hospital care insurance;
- (b) defining words used in this Act for the purposes of this Act and the regulations;
- (c) approving hospitals for the purposes of the plan of hospital care insurance;
- (d) making such arrangements as are necessary to ensure that adequate standards are maintained in hospitals;
- (e) providing for the admission, discipline and discharge of patients or any class of patients in hospitals in Ontario to which hospitals payments are made under the plan of hospital care insurance;
- (f) prohibiting or restricting the making and renewing of contracts to provide a resident with or reimbursing or indemnifying a resident for the cost of insured services, and regulating the making and renewing of contracts of insurance and prepayment plans with residents to provide any benefits related directly or indirectly to hospitalization or to the length of time a person is in hospital;
- (g) prohibiting payment by insurers of the cost of any insured services and the provision of any benefit related directly or indirectly to hospitalization or to the length of time a person is in hospital;
- (h) subrogating the Commission to any right of recovery of past hospital expenses and future hospital expenses by an insured person or by a hospital indigent described in the regulations in respect of any injury or disability, and providing the terms and conditions under which an action to enforce such rights may be begun, conducted and settled and the terms and conditions under which the proceeds of the settlement or a judgment to which the Commission is entitled shall be paid to the Commission, and prescribing security therefor;
- (i) providing for and prescribing the terms and conditions under which an action mentioned in clause *h* may be tried and judgment therein given;

- (j) establishing a schedule of the daily costs of maintenance, care, diagnosis and treatment provided in the various classes of hospitals under section 29 on which to calculate the costs of such maintenance, care, diagnosis and treatment that may be recovered by the Commission under its subrogated rights;
- (k) providing for payment to the Commission by an insurer of the amount of a claim in respect of the cost of insured services that would otherwise be payable to an insured person;
- (l) respecting grants under section 15 and prescribing classes of such grants and the methods of determining the amounts of such grants and providing for the manner and times of payment and the suspension and withholding of such grants and for the making of deductions from such grants;
- (m) respecting loans under section 16 and providing the terms and conditions upon which such loans may be made, the amounts thereof, and the manner and times of repayment of such loans;
- (n) prescribing the matters upon which by-laws are to be passed, amended or revised by schools of nursing under section 17 and providing for the submission of such by-laws, amendments or revisions to the Commission;
- (o) establishing The Hospital Services Commission Fund and providing for the operation of the Fund, for deposits into and withdrawals from the Fund and for the investing of any surplus moneys in the Fund that are not necessary for the current requirements of the Commission;
- (p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 176, s. 15 (1); 1967, c. 36, s. 5 (1, 2); 1968, c. 53, s. 3.

Idem

(2) The Board, subject to the approval of the Lieutenant Governor in Council, may make regulations,

- (a) providing for the insuring of persons and the payment of premiums, and prescribing the premiums that shall be paid by insured persons;
- (b) designating classes of insured persons and prescribing the conditions for participation of any class;
- (c) fixing municipal responsibility for a portion of the cost of insured services for recipients of public assistance, but the portion shall not exceed the rates established for municipal liability for indigents by *The Public Hospitals Act*;

- (d) providing for compulsory participation in the plan of hospital care insurance by designated groups of persons ordinarily resident in Ontario;
- (e) regulating insurance contracts that provide hospital insurance benefits supplementary to those made available under this Act and the regulations;
- (f) respecting any matter considered necessary or desirable for carrying out the functions of the Board. 1967, c. 36, s. 5 (3).

(3) A regulation may be limited in its application in time, place, persons or things and may be retroactive in its operation. Application of regulations R.S.O. 1960, c. 176, s. 15 (2).

**21.** The Commission is not liable for any act or omission of any hospital official, any person on the medical staff or nursing staff of a hospital, or any employee or agent of a hospital. Liability limited R.S.O. 1960, c. 176, s. 16.

**22.**—(1) No person shall knowingly obtain or receive the benefit of insured services that he is not entitled to obtain or receive under this Act and the regulations. Offences

(2) No person shall knowingly aid or abet another person to obtain or receive insured services that such other person is not entitled to obtain or receive under this Act and the regulations. Idem

(3) Every person who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. Idem R.S.O. 1960, c. 176, s. 17.

**23.** Every person who obstructs an inspector or a medical practitioner in the performance of his duties under this Act and the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$10,000 or to imprisonment for a term of not more than six months, or to both. Offence R.S.O. 1960, c. 176, s. 18.

**24.**—(1) Every person who contravenes any provision of this Act or the regulations for which no penalty is specifically provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$1,000. General penalty

(2) Where the offence is the failure by an employer to remit on behalf of himself and his employees the premiums required by the regulations, the penalty imposed under subsection 1 shall be increased by an amount equal to the amount of such premiums, and, upon payment of the penalty as so increased, the employer



shall be deemed to have remitted such premiums. R.S.O. 1960, c. 176, s. 19.

Liability of directors

(3) Where the employer is a corporation, the directors thereof are jointly and severally liable for the payment of the amount by which the penalty imposed under subsection 1 is increased under subsection 2. 1962-63, c. 58, s. 1.

Liability of directors

**25.** Where an employer that is a corporation has failed to remit on behalf of its employees the premiums required by the regulations, the directors thereof are jointly and severally liable for the payment to the Commission of the amount of such premiums when the corporation,

(a) goes into liquidation;

(b) is ordered to be wound up;

R.S.C. 1952,  
c. 14

(c) makes an authorized assignment under the *Bankruptcy Act* (Canada); or

(d) has a receiving order under the *Bankruptcy Act* (Canada) made against it. 1962-63, c. 58, s. 2.

Disposition of fines

**26.** The fines recovered for offences against this Act shall be paid over to the Commission. R.S.O. 1960, c. 176, s. 20.

Protection from being called as witnesses

**27.**—(1) No member of the Commission and no employee thereof shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his duties.

Protection from personal liability

(2) No member of the Commission and no employee thereof is personally liable for anything done by it or him under the authority of this Act or any other Act or any regulation. R.S.O. 1960, c. 176, s. 21.

Security of records

**28.** The Commission shall not be required to make available for evidence in any civil suit any information concerning a patient obtained by the Commission from,

(a) the records of a hospital, including a hospital under section 29; or

(b) a statement made to inform the Commission about an incident that caused an insured person to require care and treatment in a hospital. R.S.O. 1960, c. 176, s. 22.

#### TUBERCULOSIS AND MENTAL ILLNESS

Interpretation

R.S.O. 1970,  
cc. 269, 68,  
422

**29.**—(1) In this section, “hospital” means a psychiatric facility under *The Mental Health Act*, a children’s mental health centre under *The Children’s Mental Health Centres Act* or a sanatorium established under *The Sanatoria for Consumptives Act*. R.S.O. 1960, c. 176, s. 23 (1); 1961-62, c. 55, s. 2, *amended*.

(2) An insured person who is entitled to insured services under the plan of hospital care insurance and who is admitted to a hospital under this section is entitled to such services as are required for his maintenance, care, diagnosis and treatment in accordance with this Act and the regulations without being required to pay or have paid on his behalf any additional premium or other charge beyond that necessary to entitle him to insured services under the plan of hospital care insurance. Insured persons entitled

(3) Notwithstanding subsection 2, an insured person in respect of whom, but for this Act, the Government of Canada would have assumed the cost of the maintenance, care, diagnosis and treatment provided under this section is not entitled to receive insured services in a hospital as an insured person. Exceptions

(4) The Commission shall keep the accounts, if any, of insured persons who receive insured services under this section separate from the accounts of patients who receive insured services under the plan of hospital care insurance mentioned in section 13. Accounts  
13. R.S.O. 1960, c. 176, s. 23 (2-4).

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## CHAPTER 210

**The Hospitals and Charitable  
Institutions Inquiries Act**

**1.** Whenever the Lieutenant Governor in Council considers it expedient to cause inquiry to be made concerning any matter connected with or affecting a hospital, sanatorium, charitable institution or other organization that is granted aid out of moneys appropriated by the Legislature, he may, by commission, appoint one or more persons to conduct such inquiry, and every person so appointed for that purpose has all the powers that may be conferred upon a commissioner appointed under *The Public Inquiries Act*. R.S.O. 1960, c. 177, s. 1.

Power to  
make  
inquiry

**2.** Sections 4 and 5 of *The Public Inquiries Act* apply *mutatis mutandis* to an inquiry authorized under this Act. R.S.O. 1960, c. 177, s. 2.

Application  
of  
R.S.O. 1970,  
c. 379

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## CHAPTER 211

## The Hotel Fire Safety Act

## 1. In this Act,

Interpre-  
tation

- (a) “fire door” means a hollow-metal, metal-clad, sheet-metal, steel or two-ply tin-clad door that is automatic or self-closing;
- (b) “Fire Marshal” means the Fire Marshal of Ontario;
- (c) “fire-resistive construction” means construction in which,
  - (i) the exterior walls are wholly of brick, stone, concrete, hollow block, solid block or the equivalent,
  - (ii) the interior walls and partitions are made of incombustible materials,
  - (iii) the floors and their supports are made of incombustible materials other than the floor covering, which may be wood, and
  - (iv) the roofs are made of incombustible materials;
- (d) “fire wall” means a partition wall of fire-resistive construction extending from the ground to a point three feet above the roof and in which all openings are protected by fire doors;
- (e) “grade” means the average level of the ground next to the building;
- (f) “hotel” means an establishment that provides sleeping accommodation for the public and is licensed under *The Department of Tourism and Information Act* or *The Liquor Licence Act*.
- (g) “incombustible”, as applied to a material or combination of materials, means steel, iron, brick, tile, concrete, slate, asbestos, wired glass, cement or gypsum plaster or other material that will not fuse, burn or disintegrate when exposed to a temperature of 1,000 degrees Fahrenheit for a period of one hour;
- (h) “inspector” means an inspector appointed under this Act, *The Liquor Licence Act* or *The Department of Tourism and Information Act*;
- (i) “panic bolt” means a bolt or lock that can be opened at all times from the inside by downward pressure on a bar or lever;

R.S.O. 1970,  
cc. 122, 250

- (j) "regulations" means the regulations made under this Act;
- (k) "self-closing", as applied to a door, window or other protection for an opening, means that such door, window or other protection is normally closed and will immediately return to the closed position when it is opened and released;
- (l) "smoke-proof" means constructed so as to prevent the rapid passage of smoke and flames;
- (m) "storey" means that part of a building between the top of a floor and the top of the next floor above it or, if there is no floor above it, that part between the top of a floor and the ceiling above it, and the storey closest to grade having its ceiling more than six feet above grade shall be deemed to be the first storey. R.S.O. 1960, c. 179, s. 1; 1964, c. 41, s. 1 (2); 1967, c. 37, s. 1, *amended*.

What hotels  
to be fire-  
resistive

**2.—(1)** A hotel more than two storeys in height that is constructed or remodelled after the 15th day of June, 1948, an addition more than two storeys in height thereafter made to a hotel, and a building more than two storeys in height thereafter converted for use as a hotel, shall be of fire-resistive construction.

Require-  
ments for a  
fire wall

(2) Where an addition is made after the 15th day of June, 1948, to a hotel and either the addition or the hotel is not of fire-resistive construction, there shall be a fire wall between the addition and the hotel. R.S.O. 1960, c. 179, s. 2.

Minimum  
number and  
location of  
stairways

**3.—(1)** There shall be not less than two stairway systems in or in connection with a hotel, located as far apart as possible and so as to provide not less than two independent means of egress for the occupants on each floor.

Stairways  
in certain  
hotels

(2) Every stairway in or in connection with a hotel that existed on the 15th day of June, 1948, and that is more than two storeys in height shall be fully enclosed and smoke-proof, except that an exterior iron stairway with balconies at each floor or a metal tubular or spiral fire-escape may, with the written permission of an inspector, be used in lieu of a fully enclosed and smoke-proof stairway.

Stairways  
in certain  
hotels

(3) Every stairway in or in connection with,

- (a) a hotel more than two storeys in height constructed or remodelled after the 15th day of June, 1948; or
- (b) an addition more than two storeys in height made to a hotel after the 15th day of June, 1948; or
- (c) a building more than two storeys in height converted for use as a hotel after the 15th day of June, 1948,

shall be fully enclosed, smoke-proof and of fire-resistive construction.

(4) Notwithstanding subsections 2 and 3, a stairway extending only to the second or mezzanine storey in a hotel of fire-resistive construction may be an open stairway. Exception

(5) Every stairway from any part of a hotel, other than from a place of public assembly, shall have a clear width of not less than twenty-two inches, and each step shall have not less than a ten-inch tread and not more than an eight-inch rise except that, where structural difficulties exist, the inspector may give written permission for steps having not less than an eight-inch tread. Minimum width of stairways

(6) Every stairway from a part of a hotel used as a place of public assembly shall have a clear width of not less than forty-four inches, and each step shall have at least a ten-inch tread and not more than an eight-inch rise. Minimum width of stairways from place of assembly

(7) Where in a hotel more than two storeys in height any stairway is located so as to require the users thereof to pass through a lobby or other place of public assembly in order to reach the outside of the building, an inspector may make an order requiring the lobby or other place of public assembly to be equipped with an automatic sprinkler system. R.S.O. 1960, c. 179, s. 3. Where stairway does not give direct egress

**4.**—(1) No exterior stairway of,

- (a) a hotel more than two storeys in height constructed or remodelled after the 15th day of June, 1948; or
- (b) an addition more than two storeys in height made to a hotel after the 15th day of June, 1948; or
- (c) a building more than two storeys in height constructed for use as a hotel after the 15th day of June, 1948,

Exterior stairways in certain hotels:

shall extend more than five storeys above grade.

(2) Every exterior stairway of a hotel shall extend to the ground, except that an inspector may give written permission for the bottom flight of such stairway to be counter-balanced. R.S.O. 1960, c. 179, s. 4. to extend to ground

**5.**—(1) Every window, except a first-storey display window, in a hotel beneath any part of an exterior stairway or opening onto or within ten feet of an exterior stairway shall be provided with wired glass and every door similarly located shall be metal-clad. Windows and doors beneath exterior stairways

(2) There shall be no wall opening, other than a door or window beneath or within ten feet of an exterior stairway of a hotel. No other wall openings

(3) Every door and window opening to a stairway in or in connection with a hotel shall be not less than thirty inches in width and shall be hinged to open outwards with the line of exit Doors and windows opening to stairways



travel and equipped with panic bolts only. R.S.O. 1960, c. 179, s. 5.

Balconies  
and landings

**6.** The width of every balcony and landing in connection with a stairway in or in connection with a hotel shall be not less than the width of the door leading to it and shall have an area of not less than twelve square feet. R.S.O. 1960, c. 179, s. 6.

Railings

**7.** Every exterior stairway shall have an iron railing not less than thirty-two inches in height, measured perpendicularly from the nosing of the step, and every balcony and landing in connection with an exterior stairway of a hotel shall have an iron railing not less than three feet in height on all sides. R.S.O. 1960, c. 179, s. 7.

Passageways

**8.** Every passageway in a hotel leading to an exit door or stairway shall be not less than three feet in width and the walls and ceiling thereof shall be surfaced with plaster, plaster board or other incombustible material unless it is protected with an automatic sprinkler system. R.S.O. 1960, c. 179, s. 8.

Approaches  
to stairways

**9.** The approaches to every stairway in a hotel shall be unobstructed and shall not be through a room used as a bedroom or bathroom or for any purpose that may obstruct free passage, and no such approach shall be veiled from open view by any ornamentation, curtain or other thing. R.S.O. 1960, c. 179, s. 9.

Rotating  
doors

**10.** Rotating doors may be installed in hotels at exterior entranceways only and shall be collapsible and flanked within fifteen feet by one or more doors that open outwards and that have a total width of not less than forty-four inches. R.S.O. 1960, c. 179, s. 10.

Exit signs

**11.—(1)** Every exit sign in a hotel shall have the word "EXIT" displayed in block letters not less than six inches in height and coloured white on a red background or coloured red on a contrasting background, except that luminous signs of equivalent visibility may be used in lieu thereof.

Electric  
exit signs

**(2)** Where electricity is available, every exit sign in a hotel shall be illuminated during the night by an electric lamp supplied from a circuit separate from the domestic electric system.

Location of  
exit signs

**(3)** A hotel shall have an exit sign placed above or beside every exit door and every exit window so as to be clearly visible. R.S.O. 1960, c. 179, s. 11.

Directional  
signs

**12.** A hotel shall display signs in such manner and in such locations as an inspector orders indicating the directions of travel to reach the exits. R.S.O. 1960, c. 179, s. 12.

**13.** A hotel shall display in each bedroom a floor plan showing the location of the exits and indicating the directions of travel to reach them and also a notice giving the fire safety rules of the hotel. R.S.O. 1960, c. 179, s. 13.

Notices to be displayed in each bedroom

**14.** Every exterior stairway, balcony, landing, exit door and exit window of a hotel shall be kept free at all times from obstructions, including ice and snow. R.S.O. 1960, c. 179, s. 14.

Exits to be kept clear

**15.** Every elevator shaft in a hotel shall be fully enclosed with incombustible materials and the top thereof shall be equipped with heat-actuated vents, and every elevator door shall be of metal and wired glass without openings. R.S.O. 1960, c. 179, s. 15.

Elevator shafts and doors

**16.** Every boiler or furnace room in a hotel shall be of fire-resistive construction and shall be equipped with fire doors. R.S.O. 1960, c. 179, s. 16.

Boiler and furnace rooms

**17.** A hotel not completely equipped with an automatic sprinkler system or a heat-actuated fire detection system and containing twenty or more bedrooms above the first storey shall have a watchman on duty from 10 o'clock each night until 6 o'clock the following morning, and the watchman shall be equipped with a watchman's clock and he shall make a round of the hotel at least once every hour during his duty period. R.S.O. 1960, c. 179, s. 17.

Where watchman to be employed

**18.** A hotel containing fifty or more bedrooms above the first storey shall have at least one adult male employee trained in fire fighting to the standard prescribed by the regulations on duty at all times within the hotel, except that this section does not apply where the hotel is in a municipality that has a fire department and where the hotel is completely equipped with an automatic sprinkler system or a heat-actuated fire detection system connected electrically with an alarm in the fire department or with a central signal supervisory service. R.S.O. 1960, c. 179, s. 18.

Where fire fighters to be on duty

**19.** A hotel shall have a fire-alarm system capable of being heard throughout the hotel and of being operated from each floor and from the hotel office. R.S.O. 1960, c. 179, s. 19.

Fire alarms

**20.—(1)** A hotel not of fire resistive construction shall have smoke-proof barriers in such locations as an inspector orders.

Smoke-proof barriers

**(2)** An inspector may make an order requiring any hotel not of fire-resistive construction that is four or more storeys in height and is in a city or that is three or more storeys in height and is not in a city to have an automatic sprinkler system or a heat-actuated fire detection system. R.S.O. 1960, c. 179, s. 20.

Power to require sprinkler systems

Duty to  
call fire  
department

**21.** When a fire is discovered in a hotel in a municipality that has a fire department, the manager or other person in charge shall immediately call the fire department. R.S.O. 1960, c. 179, s. 21.

Special  
powers of  
inspectors

**22.** Where an inspector finds that a condition exists in a hotel that makes the hotel specially liable to fire, he may make an order directing the hotelkeeper to remedy the condition. R.S.O. 1960, c. 179, s. 22.

Orders of  
inspector

**23.**—(1) Where an inspector makes an order under this Act, he shall cause a copy of the order to be delivered to the hotelkeeper by personal service or by registered mail. R.S.O. 1960, c. 179, s. 23 (1).

Right of  
appeal

(2) If the hotelkeeper feels aggrieved by the order, he may appeal within ten days from the service of the order to the Fire Marshal who shall examine the order and affirm, modify or revoke it, and he shall prepare written reasons for his decision and cause a copy of his decision and the reasons therefor to be delivered to the hotelkeeper by personal service or by registered mail. R.S.O. 1960, c. 179, s. 23 (2); 1960-61, c. 36, s. 1.

Right of  
application  
to court

(3) If the hotelkeeper is dissatisfied with the decision of the Fire Marshal, he may, within ten days from the service of the decision, apply by way of originating notice according to the practice of the court, to the judge of the county or district court of the county or district in which the hotel is situate, for an order modifying or revoking the order, and the judge, upon such application, may affirm, modify or revoke the order, and his decision is final.

Failure to  
prosecute  
application

(4) If an application to the county or district judge is not prosecuted by the hotelkeeper within thirty days from the filing of the originating notice, the judge may dismiss the application at the request of the Fire Marshal. R.S.O. 1960, c. 179, s. 23 (3, 4).

Offence

**24.**—(1) Every hotelkeeper who operates a hotel that does not conform with this Act and the regulations or who fails to comply with any order made by an inspector is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500, and, in addition, the provincial judge may order the hotel to be closed until it is made to conform with this Act and the regulations or with the order of the inspector.

Conviction  
not bar to  
further  
charge

(2) The conviction under this Act of a hotelkeeper does not operate as a bar to further prosecution under this Act for the continued failure on his part to comply with this Act and the regulations or the order of an inspector but such continuance constitutes a new and separate offence. R.S.O. 1960, c. 179, s. 24.

**25.** The Lieutenant Governor in Council may appoint one or more inspectors to enforce this Act and the regulations. Inspectors, appointment R.S.O. 1960, c. 179, s. 25.

**26.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) requiring the submission of drawings and specifications to the Fire Marshal for review and approval prior to the construction, alteration or remodelling of and additions to hotels;
- (b) prescribing the mode of, and the materials to be used in, the construction, alteration or remodelling of and additions to hotels or any designated class thereof;
- (c) prescribing the mode of erection or installation of stairways, balconies, fire walls, doors, windows, exits and fire-prevention, fire-protection and fire-alarm equipment in or outside hotels or any designated class thereof, and the materials to be used therein;
- (d) prescribing the mode of the construction of heating, ventilating and air-conditioning systems in hotels or any designated class thereof;
- (e) regulating the location, arrangement and maintenance of places of public assembly in hotels or any designated class thereof, and prescribing the mode of construction of such places;
- (f) controlling or prohibiting exhibits and displays in hotels or any designated class thereof;
- (g) controlling or prohibiting the use of flammable decorations, curtains and drapes in hotels or any designated class thereof;
- (h) prescribing standards of housekeeping for hotels;
- (i) prescribing a standard of training in fire-fighting for employees of hotels;
- (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 179, s. 26.

**27.** Nothing in this Act or the regulations affects any by-law relating to the matters mentioned in this Act or the regulations and lawfully passed by a municipal council, or the authority of a municipal council to pass any such by-law, in so far as such by-law imposes additional or more stringent requirements than those contained in this Act or the regulations. Municipal by-laws not affected R.S.O. 1960, c. 179, s. 27.





## CHAPTER 212

## The Hotel Registration of Guests Act

**1.** In this Act, “hotel” means a separate building or two or more connected buildings used mainly for the purpose of catering to the needs of the travelling public by the supply of food and also by the furnishing of sleeping accommodation of not fewer than six bedrooms as distinguished from any other building or connected buildings used mainly for the purpose of supplying food and lodging by the week or otherwise commonly known as “boarding houses” or of furnishing living quarters for families and having a dining room or restaurant commonly known as “apartment houses” or “private hotels”. R.S.O. 1960, c. 180, s. 1, *amended*. Interpretation

**2.** A register shall be kept in every hotel in which shall be entered the name and usual place of residence of every person admitted as a guest in the hotel and occupying a room therein alone or with another person. R.S.O. 1960, c. 180, s. 2. Register to be kept

**3.** The owner and the manager of a hotel who fails to keep the register required by section 2 or to see that the particulars required by section 2 are entered therein, or who knowingly and wilfully permits an untrue statement as to the name or place of residence of a guest to be entered in the register is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50, and in default of payment may be imprisoned for a term of not more than three months. R.S.O. 1960, c. 180, s. 3. Offence

**4.** Every person who applies for admission as a guest in a hotel and who registers under or represents himself as bearing some other name than his own, or who in registering or procuring admission to a hotel, makes a false statement as to his ordinary place of residence, is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$200, and in default of payment may be imprisoned for a term of not more than three months. R.S.O. 1960, c. 180, s. 4. Offence

**5.—(1)** In every room used for sleeping accommodation in a hotel there shall be kept posted in a conspicuous place a notice specifying the rates charged for the room. Notice of rates to be posted

**(2)** Every owner and every manager of a hotel who fails to keep posted the notice required by subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1960, c. 180, s. 5. Offence



## CHAPTER 213

## The Housing Development Act

**1.** In this Act,Interpre-  
tation

- (a) “building development” means a project designed to furnish housing accommodation with or without public buildings, recreational facilities, industrial and commercial buildings or space appropriate therefor, and includes a plan for the redevelopment of land in blighted or substandard areas in any municipality;
- (b) “building development corporation” means a corporation authorized to undertake a building development that is approved by the Lieutenant Governor in Council, and includes any authority established by a municipality to undertake a building development;
- (c) “Minister” means the Minister responsible for the administration of this Act under section 12. R.S.O. 1960, c. 182, s. 1; 1961-62, c. 59, s. 1, *amended*.

**2.—(1)** The Lieutenant Governor in Council may,L.G. in C.  
may  
advance or  
guarantee  
moneys for  
building  
develop-  
ments, etc.

- (a) guarantee moneys loaned to persons to be used in the construction of a building development;
- (b) advance moneys or guarantee moneys loaned to any building development corporation to undertake a building development;
- (c) advance moneys or guarantee moneys loaned to persons to acquire and rehabilitate housing units;
- (d) advance moneys or guarantee moneys loaned to any municipality to acquire, demolish and clear dwelling units on land in the municipality that cannot reasonably be rehabilitated for housing purposes; and
- (e) make grants in aid of any housing development.

(2) Where moneys are advanced or guaranteed under clause *d* of subsection 1, the land shall not be used for other than public purposes without the approval of the Minister. 1961-62, c. 59, s. 2, *part*.

Use of  
certain  
lands  
restricted**3.** The Minister may,

- (a) make grants in aid of studies into housing conditions or any matter relating to housing in Ontario; and

Grants for  
studies into  
housing and  
to assist  
house build-  
ing industry



- (b) make grants and otherwise assist the house building industry in Ontario by stimulating and encouraging research, education and constructive competition within the industry. 1961-62, c. 59, s. 2, *part, amended*.

Advisory  
committees

**4.** The Minister may, for the purpose of assisting him in the carrying out of his responsibilities, appoint such advisory committees as he may consider necessary and may pay the reasonable travelling and living expenses incurred by the members of such advisory committees. 1961-62, c. 59, s. 2, *part, amended*.

Municipali-  
ties may  
assist in  
financing

**5.** Notwithstanding any other Act, any municipality, with the approval of the Lieutenant Governor in Council, may advance moneys or guarantee moneys to be advanced to any building development corporation undertaking a building development, and may issue debentures therefor. R.S.O. 1960, c. 182, s. 5.

Joint  
housing  
projects  
authorized

**6.—(1)** The Crown in right of Ontario represented by the Minister may make agreements with the Crown in right of Canada represented by the Minister of Public Works or such other Minister as may be authorized in that behalf respecting joint projects as contemplated in section 36 of the *National Housing Act, 1954* (Canada) for,

1953-54,  
c. 23 (Can.)

- (a) the acquisition and development of land for housing purposes;
- (b) the construction of housing projects for sale or for rent; and
- (c) the acquisition, improvement and conversion for housing purposes of existing buildings situated in any municipality. 1960-61, c. 37, s. 1; 1961-62, c. 59, s. 3 (1, 2), *amended*.

Corporations  
to carry out  
housing  
projects

(2) The Lieutenant Governor in Council may constitute corporations with such powers and duties as are deemed expedient to carry out any of the terms of any agreement made under subsection 1 or to carry out any housing project, including power to plan, construct and manage any housing project undertaken under any such agreement or otherwise, and including power to acquire and dispose of land in its own name. 1966, c. 68, s. 1 (1).

Provincial  
share of  
cost

(3) Any moneys required to be furnished by the Crown in right of Ontario under any agreement made under subsection 1 shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 182, s. 6 (3).

Moneys  
required by  
corporations  
for purposes  
other than  
carrying out  
agreements

(4) Any moneys required by the Crown in right of Ontario for the purposes of any corporation constituted under subsection 2 for purposes other than to carry out the terms of an agreement made under subsection 1 shall be paid, out of the moneys appropriated therefor by the Legislature. 1966, c. 68, s. 1 (2), *amended*.

(5) Notwithstanding any other Act, the council of a municipality that enters into or has heretofore entered into an agreement with Her Majesty the Queen in right of Ontario, or with Her Majesty the Queen in right of Ontario and Central Mortgage and Housing Corporation, a corporation established by *The Central Mortgage and Housing Corporation Act* (Canada), pursuant to *The Housing Development Act, 1948* or this Act or a predecessor of this Act shall be deemed to have and to have had authority to enter into such agreement and shall have all such powers as may be necessary to carry out the provisions thereof or of any undertaking given by such council pursuant thereto, and, without limiting the generality of the foregoing, such council may incur continuing obligations and make provisions for the discharge thereof and may contribute moneys to and expend moneys on joint housing projects and raise moneys therefor by the issue of debentures, all without the assent of the electors and without reference to the Ontario Municipal Board, and such council may apportion any debt or obligation arising out of such agreement in such manner as it considers equitable against any properties, whether such properties form part of a project within the meaning of such agreement or are adjacent thereto, and such debt or obligation when so apportioned shall be deemed to be a land tax within the meaning of *The Municipal Act* and recoverable as such. R.S.O. 1960, c. 182, s. 6 (4), *amended*.

Powers of municipalities under joint housing agreements

1945  
(2nd Sess.)  
c. 15 (Can.)

R.S.O. 1970,  
c. 284

(6) The Crown in right of Ontario may agree to pay annually to any municipality, in respect of any lands acquired for a joint housing project within the municipality, a sum of money calculated on any basis whatsoever but not in excess of the amount that in the opinion of the Minister of Municipal Affairs would have been payable to the municipality as taxes on such lands if they had not been exempt from taxation.

Payments in lieu of taxes

(7) Where an agreement under subsection 6 is in force in respect of land occupied by tenants, the land is nevertheless exempt from taxation, including local improvement rates.

Tax exemption for tenant-occupied lands

(8) The right to vote of such tenants is not affected by subsection 7, and the assessment rolls and voters' lists shall be prepared in the usual manner as if subsection 7 had not been passed.

Right to vote not affected

(9) Notwithstanding any other Act, the Lieutenant Governor in Council may authorize any municipality in or near which a joint housing project is undertaken to do or not to do such acts or things as are considered expedient in order to avoid undue delay in the development of the project, including the furnishing of municipal services. R.S.O. 1960, c. 182, s. 6 (5-8).

Power to expedite development of projects

(10) Where in an agreement made under this Act it is provided that payments shall be made to a municipality in lieu of taxes, such payments shall be distributed by the council of the municipality.

Distribution of payments in lieu of taxes

pality to each of the bodies for which the council is required by law to levy or collect rates as if the land in respect of which the payment is made had been assessed and taxed in the usual way, and, for all purposes of distribution of any part of such payments between school boards, the tenants of any joint housing project shall be deemed to be rated as tenants on the assessment roll of the municipality. 1961-62, c. 59, s. 3 (3).

Acquisition  
of land

**7.**—(1) The Minister may, for and in the name of Her Majesty in right of Ontario, acquire by purchase or otherwise, or, without the consent of the owner, enter upon, take and expropriate any land he considers necessary for the purposes of a housing project under section 6. R.S.O. 1960, c. 182, s. 7 (1); 1960-61, c. 37, s. 2, cl. (a), *amended*.

Expro-  
priation  
R.S.O. 1970,  
c. 393

(2) The Minister in the exercise of his powers to take land compulsorily has all the powers conferred by *The Public Works Act* on the Minister of Public Works in relation to a public work, and in the application of this section where the words “the Minister”, “the Department” or “the Crown” appear in such Act, they mean, where the context permits, the Minister under this Act. R.S.O. 1960, c. 182, s. 7 (2); 1960-61, c. 37, s. 2, cl. (b), 1961-62, c. 59, s. 4 (2), *amended*.

Procedure  
R.S.O. 1970,  
c. 154

(3) The Minister shall proceed in the manner provided by *The Expropriations Act*, and the provisions of that Act, apply. R.S.O. 1960, c. 182, s. 7 (3); 1960-61, c. 37, s. 2, cl. (c), 1961-62, c. 59, s. 4 (3), *amended*.

Contribution  
by  
corporations

**8.**—(1) The Crown in right of Ontario may enter into an agreement with any corporation under which the corporation will contribute moneys to any joint housing project being carried out under section 6.

Powers of  
corporations

(2) Any corporation incorporated under the laws of Ontario has power to enter into and carry out such agreement. R.S.O. 1960, c. 182, s. 8.

Interpre-  
tation

**9.**—(1) In this section, “family of low income” means a family that receives a total family income that, in the opinion of the Minister is insufficient to permit it to rent housing accommodation adequate for its needs at the current rental market in the area in which the family lives. 1961-62, c. 59, s. 5, *part, amended*.

Powers of  
manage-  
ment cor-  
porations

(2) With the approval of the Lieutenant Governor in Council, a corporation constituted under subsection 2 of section 6 may,

- (a) lease privately-owned housing units for occupancy by families of low income and lease such housing units to families of low income; and
- (b) if requested by the municipality in which the corporation exercises its powers,



- (i) inquire into any matter relating to housing conditions or a building development in the municipality and report thereon to the municipality with its recommendations; and
- (ii) undertake the management of any housing development in the municipality.

(3) The municipality at whose request an inquiry is made under subsection 2 may pay all or any part of the expenses incurred by the corporation with respect to such inquiry.

Payment of expenses re inquiry

(4) Where a corporation manages a housing development at the request of a municipality, the municipality shall pay to the corporation such fees for the management of the housing development as may be prescribed by the regulations made under this Act. 1961-62, c. 59, s. 5, *part*.

Management fees

**10.** The moneys required by the Lieutenant Governor in Council for the purposes of this Act, except section 13, shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 182, s. 10.

Moneys required for purposes of Act

**11.** The cost of administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 182, s. 11.

Cost of administration

**12.** This Act shall be administered by the Minister of Trade and Development or such other member of the Executive Council to whom it is assigned by the Lieutenant Governor in Council. R.S.O. 1960, c. 182, s. 12; 1960-61, c. 37, s. 2, cl. (e); 1961-62, c. 59, s. 6, *amended*.

Administration of Act

**13.—(1)** Notwithstanding subsection 2 of section 3 of *The Corporations Act*, Housing Corporation Limited, being a corporation incorporated by letters patent dated the 29th day of April, 1948, for the purpose and object of lending and investing money on mortgage of real estate, may issue bonds, debentures or debenture stock.

Housing Corporation Ltd., power to issue bonds, etc. R.S.O. 1970, c. 89

(2) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to purchase or to guarantee the payment of any notes, bonds, debentures or debenture stock issued by Housing Corporation Limited.

Provincial guarantee, etc.

(3) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to make advances to Housing Corporation Limited in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council considers expedient.

Advances to Housing Corporation Limited



Advances  
out of  
Fund

(4) All moneys required for the purposes of this section shall be paid out of the Consolidated Revenue Fund. R.S.O. 1960, c. 182, s. 13.

Regulations

**14.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the terms and conditions upon which money may be granted, advanced or guaranteed under this Act;
- (b) providing for the incorporation, constitution and management of building development authorities;
- (c) prescribing fees for the management of housing developments which may be different in respect of any one or more housing developments;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 182, s. 14; 1961-62, c. 59, s. 7.

Interpre-  
tation

**15.** In sections 16 and 17, "housing project" means a project designed to provide housing accommodation, or to facilitate in any way the provision of housing accommodation, with or without any public space, recreational facilities and commercial space or buildings appropriate thereto. R.S.O. 1960, c. 182, s. 15.

Acquisition  
of lands for  
housing  
projects

**16.**—(1) For the purpose of a housing project, a municipality, with the approval of the Minister, may,

- (a) acquire land in the municipality;
- (b) hold land heretofore or hereafter acquired in the municipality;
- (c) sell, lease or otherwise dispose of land so acquired or held for a nominal or other consideration to any person or governmental authority having power to undertake housing projects. R.S.O. 1960, c. 182, s. 16 (1); 1960-61, c. 37, s. 2, cl. (f); 1961-62, c. 59, s. 8 (1), *amended*.

Adjacent  
municipality

(2) For the purpose of a housing project, a municipality, with the approval of the Minister and of the council of the municipality in which the land is situate, may exercise any of the powers mentioned in subsection 1 in respect of land in an adjacent municipality. R.S.O. 1960, c. 182, s. 16 (2); 1960-61, c. 37, s. 2, cl. (g); 1961-62, c. 59, s. 8 (2), *amended*.

Applica-  
tion of  
R.S.O. 1970,  
c. 284

(3) The provisions of *The Municipal Act* apply to the acquisition of land under this section.

Exchange  
of lands

(4) Where a municipality acquires land under this section, the whole or part of the consideration therefor may be land then owned by the municipality.

(5) Where a municipality has acquired or holds land under this section, the municipality may clear, grade or otherwise prepare the land for the purpose of the housing project. R.S.O. 1960, c. 182, s. 16 (3-5). Power to clear, grade, etc.

**17.**—(1) A municipality, with the approval of the Minister, may, Agreements re housing projects

- (a) enter into an agreement with any person or governmental authority for sharing or contributing to the capital cost or the maintenance cost of a housing project;
- (b) enter into an agreement with any person or governmental authority undertaking a housing project to provide that certain specified uses of land in a specified area surrounding or adjacent to the project will be maintained for the period specified in the agreement. R.S.O. 1960, c. 182, s. 17; 1960-61, c. 37, s. 2, cl. (h); 1961-62, c. 59, s. 9 (1), *amended*.

(2) For the purpose of subsection 1, “maintenance cost” includes taxes assessed by the municipality against the housing project. 1961-62, c. 59, s. 9 (2). Maintenance cost

**18.** To relieve any emergency in housing conditions, a municipality, with the approval of the Minister, may erect, maintain, manage and wind up projects for temporary housing accommodation either in or outside the municipality. R.S.O. 1960, c. 182, s. 18; 1960-61, c. 37, s. 2, cl. (i); 1961-62, c. 59, s. 10, *amended*. Temporary housing projects

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CHAPTER 214

The Human Tissue Act

1. In this Act,

Interpre-  
tation

- (a) “donor” means a person who,
  - (i) in writing at any time, or
  - (ii) orally in the presence of at least two witnesses during his last illness,has requested that his body or a specified part or parts thereof be used after his death for therapeutic purposes or for the purposes of medical education or research;
- (b) “person lawfully in possession of the body” does not include,
  - (i) a coroner in possession of a body for the purpose of investigation, or
  - (ii) an embalmer or funeral director in possession of a body for the purpose of its burial, cremation or other disposition. 1962-63, c. 59, s. 1.

2.—(1) Where a donor dies in a hospital, the administrative head of the hospital or the person acting in that capacity may authorize,

Death in  
hospital

- (a) the use of the body; or
- (b) the removal of the part or parts of the body specified by the donor and the use thereof,

for therapeutic purposes or for the purposes of medical education or research in accordance with the request of the donor.

(2) Where a donor has requested that his body be used after his death for any of the purposes mentioned in this Act and he dies in a hospital, the administrative head of the hospital or the person acting in that capacity, in the event that he does not require the use of the body, shall immediately notify the local inspector of anatomy who shall thereupon take control of the body and cause it to be delivered to a person qualified to receive unclaimed bodies under section 5 of *The Anatomy Act* for the purposes of that Act. 1962-63, c. 59, s. 2.

Idem, where  
body not  
required

R.S.O. 1970,  
c. 21

3. Where a donor dies in a place other than a hospital, his spouse or, if none, any of his children of full age or, if none, either of his parents or, if none, any of his brothers or sisters or, if none, the person lawfully in possession of his body may authorize,

Death  
outside  
hospital



- (a) the use of the body; or
- (b) the removal of the part or parts of the body specified by the donor and the use thereof,

for therapeutic purposes or for the purposes of medical education or research in accordance with the request of the donor. 1962-63, c. 59, s. 3.

Without  
deceased's  
consent

**4.** Where a person has not made a request to be a donor and dies either in or outside a hospital, his spouse or, if none, any of his children of full age or, if none, either of his parents or, if none, any of his brothers or sisters or, if none, the person lawfully in possession of the body of the deceased person may authorize the removal of any specified part or parts from the body of the deceased person by a legally qualified medical practitioner and their use for therapeutic purposes or for the purposes of medical education or research. 1962-63, c. 59, s. 4.

Where  
death  
imminent  
and  
inevitable

**5.—(1)** Where a person who has not made a request to be a donor is, in the opinion of a legally qualified medical practitioner, incapable of making such a request and his death is imminent and inevitable, his spouse or, if none, any of his children of full age or, if none, either of his parents or, if none, any of his brothers or sisters, may authorize the removal after death of any specified part or parts from the body of the person by a legally qualified medical practitioner and their use for therapeutic purposes or for the purposes of medical education or research.

Notice to  
coroner

(2) A coroner shall be notified before any part is removed from the body of a person under subsection 1. 1967, c. 38, s. 1.

Authority  
sufficient

**6.** An authority given,

- (a) under section 2 or 3 is sufficient warrant for use of the body; and
- (b) under section 2, 3, 4 or 5 is sufficient warrant for the removal of the specified part or parts of the body and the use thereof,

for therapeutic purposes or for the purposes of medical education or research, as the case may be. 1962-63, c. 59, s. 5; 1967, c. 38, s. 2.

Exceptions

**7.—(1)** An authority shall not be given under section 2 or 3 if the person empowered to give the authority has reason to believe that the person who made the request subsequently withdrew it. 1962-63, c. 59, s. 6 (1).

Idem

(2) An authority shall not be given under section 4 or 5 if the person empowered to give the authority has reason to believe that the deceased person would, if living, have objected thereto. 1962-63, c. 59, s. 6 (2); 1967, c. 38, s. 3 (1).

(3) An authority shall not be given under section 2, 3, 4 or 5 if <sup>Idem</sup> the person empowered to give the authority has reason to believe that an inquest may be required to be held on the body of the deceased. 1962-63, c. 59, s. 6 (3); 1967, c. 38, s. 3 (2).

**8.** Nothing in this Act makes unlawful any dealing with the <sup>Lawful</sup> body of a deceased person that would be lawful if this Act had not <sup>dealings</sup> been passed. 1962-63, c. 59, s. 7. <sup>not</sup>  
<sup>affected</sup>

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CHAPTER 215

The Hunter Damage Compensation Act

**1.** In this Act,

Interpre-  
tation

- (a) “live stock” means cattle, goats, horses, sheep, swine or poultry;
- (b) “Minister” means the Minister of Agriculture and Food;
- (c) “regulations” means the regulations made under this Act. 1962-63, c. 60, s. 1; 1968, c. 54, s. 1.

**2.** The Lieutenant Governor in Council may appoint persons to act as valuers for the purposes of this Act. 1962-63, c. 60 s. 2.

Appoint-  
ment of  
valuers

**3.**—(1) Where death of or injury to live stock, or damage to such classes of property as are designated in the regulations, is occasioned by a hunter, the person who would have a cause of action against the hunter in respect of such death, injury or damage may make an application for compensation to the Minister in the manner prescribed in the regulations. 1962-63, c. 60, s. 3 (1).

Application  
for com-  
pensation

(2) Subject to subsections 3 and 4, the Minister may, in respect of an application made under subsection 1, pay to the applicant such amount as the Minister considers reasonable, but not exceeding the market value of the live stock or other property in respect of which payment is made. 1962-63, c. 60, s. 3 (2); 1968, c. 54, s. 2 (1).

Payment  
of com-  
pensation

(3) No payment shall be made under subsection 2 of an amount in respect of,

Amount of  
payment  
limited

- (a) a head of cattle in excess of \$500;
- (b) a goat in excess of \$100;
- (c) a horse in excess of \$500;
- (d) a head of sheep in excess of \$100; or
- (e) a head of swine in excess of \$100.

(4) Where an applicant is entitled to receive an amount under a contract of insurance against loss by reason of the death of or injury to live stock or damage to property in respect of which he has made application under subsection 1, the Minister shall apply an amount equal to that amount in reduction of any payment under subsection 2. 1968, c. 54, s. 2 (2).

Reduction  
in payment  
by reason of  
insurance



Minister  
subrogated  
to rights of  
applicant

(5) Where an amount has been paid under subsection 2, the Minister is subrogated to the rights of the person to whom such amount has been paid and the Minister may maintain an action in his name or in the name of such person against any other person or persons responsible for the death, injury or damage in respect of which such amount has been paid. 1962-63, c. 60, s. 3 (3).

Paid out of  
Consolidated  
Revenue  
Fund

4. The moneys required for the purposes of this Act shall be paid out of such moneys as are appropriated therefor by the Legislature. 1962-63, c. 60, s. 4, *amended*.

Regulations

5. The Lieutenant Governor in Council may make regulations,

- (a) designating classes of persons to whom this Act shall not apply;
  - (b) designating classes of property to which section 3 applies;
  - (c) prescribing the manner of making an application for compensation;
  - (d) prescribing the conditions under which an application for compensation may be made;
  - (e) prescribing the conditions under which compensation may be paid;
  - (f) prescribing forms and providing for their use;
  - (g) prescribing the duties of valuers;
  - (h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1962-63, c. 60, s. 5.
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## CHAPTER 216

### The Hypnosis Act

**1.**—(1) The Minister of Health shall administer and enforce this Act and he may designate any officer of the Department of Health or any medical officer of health or he may appoint any legally qualified medical practitioner for the purpose of making any investigation or inquiry necessary therefor.

Minister of  
Health to  
administer  
Act

(2) Any person designated or appointed under subsection 1 has all the powers of a medical officer of health under *The Public Health Act*. 1960-61, c. 38, s. 1.

Powers of  
designees  
R.S.O. 1970,  
c. 377

**2.** Subject to section 3, no person shall hypnotize or attempt to hypnotize another person. 1960-61, c. 38, s. 2.

Hypnosis  
prohibited

**3.** Section 2 does not apply to,

Exceptions

(a) any legally qualified medical practitioner using hypnosis in the practice of his profession;

(b) any dentist registered under *The Dentistry Act* using hypnosis in the practice of his profession;

R.S.O. 1970,  
c. 108

(c) 'any psychologist registered under *The Psychologists Registration Act* using hypnosis in the practice of his profession on the request of, or in association with, a legally qualified medical practitioner;

R.S.O. 1970,  
c. 372

(d) any *bona fide* student registered in a course leading to qualification in one of the professions mentioned in this section practising hypnosis for the purpose of study under the instruction and supervision of a legally qualified medical practitioner, a dentist registered under *The Dentistry Act* or a psychologist registered under *The Psychologists Registration Act*; or

(e) any member of any class of persons designated by the regulations made under this Act. 1960-61, c. 38, s. 3.

**4.** The Lieutenant Governor in Council may make regulations designating classes of persons to whom section 2 does not apply and prescribing the terms, conditions and circumstances under which members of any designated class may use hypnosis. 1960-61, c. 38, s. 4.

Regulations

## Offence

**5.** Every person who contravenes any of the provisions of this Act is guilty of an offence and on summary conviction is liable for the first offence to a fine of not less than \$100 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both, and for any subsequent offence to a fine of not less than \$200 and not more than \$2,000 or to imprisonment for a term of not more than nine months, or to both. 1960-61, c. 38, s. 5.

## Limitations

**6.** Every prosecution under this Act shall be commenced within one year from the date of the alleged offence. 1960-61, c. 38, s. 6.

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## CHAPTER 217

## The Income Tax Act

## PART I—INTERPRETATION

## 1.—(1) In this Act,

1. “agreeing province” means a province that has entered into an agreement with the Government of Canada under which the Government of Canada will collect taxes payable under the income tax statute of that province and will make payments to that province in respect of the taxes so collected; Interpre-  
tation
2. “amount” means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing;
3. “assessment” includes a reassessment;
4. “business” includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include an office or employment;
5. “collection agreement” means an agreement entered into pursuant to subsection 1 of section 48;
6. “corporation” includes an incorporated company and a “corporation incorporated in Canada” includes a corporation incorporated in any part of Canada before or after it became part of Canada;
7. “deputy head” means the Deputy Minister of Revenue, or, where a collection agreement is entered into, means the Deputy Minister of National Revenue for Taxation;
8. “employed” means performing the duties of an office or employment;
9. “employee” includes an officer;
10. “employer”, in relation to an officer, means the person from whom the officer receives his remuneration;
11. “Federal Act” means the *Income Tax Act* (Canada); R.S.C. 1952,  
c. 148
12. “Federal Regulations” means the regulations made pursuant to the Federal Act;



13. “fiscal period” means a fiscal period determined in accordance with and for the purposes of the Federal Act;
14. “income tax statute” means, with reference to an agreeing province, the law of that province that imposes a tax similar to the tax imposed under this Act;
15. “individual” means a person other than a corporation, and includes a trust or estate as defined in subsection 1 of section 63 of the Federal Act;
16. “loss” means a loss as determined in accordance with and for the purposes of the Federal Act;
17. “member of the Canadian Forces” means a member as defined for the purposes of Part XXIII of the Federal Regulations;
18. “Minister” means the Minister of National Revenue for Canada, but in any provision of the Federal Act that is incorporated by reference in this Act, unless a collection agreement has been entered into, a reference to the Minister shall be read and construed for the purposes of this Act as a reference to the Treasurer;
19. “permanent establishment” means permanent establishment as defined in the Federal Regulations;
20. “person”, or any word or expression descriptive of a person, includes any body corporate and politic, and the heirs, executors, administrators or other legal representatives of such person, according to the law of that part of Canada to which the context extends;
21. “prescribed”, in the case of a form or the information to be given on a form, means prescribed by order of the Provincial Minister, and, in any other case, means prescribed by regulation;
22. “province” does not include the Northwest Territories or the Yukon Territory;
23. “Provincial Minister” means the Minister of Revenue;
24. “Receiver General for Canada” means the Receiver General for Canada, but in any provision of the Federal Act that is incorporated by reference in this Act, unless a collection agreement is entered into, a reference to the Receiver General for Canada shall be read and construed for the purposes of this Act as a reference to the Treasurer;
25. “regulation” means a regulation made under this Act;
26. “taxable income” means taxable income as determined in accordance with and for the purposes of the Federal

Act subject to variation on objection or on appeal, if any, in accordance with the Federal Act;

27. "taxation year" means,

- i. in the case of an individual, a calendar year, and
- ii. in the case of an estate or trust arising on death, notwithstanding subparagraph i, a taxation year as defined in paragraph *a* of subsection 13 of section 63 of the Federal Act,

and, when a taxation year is referred to by reference to a calendar year, the reference is to the taxation year or years coinciding with, or ending in, that year;

28. "taxpayer" includes any person whether or not liable to pay tax;

29. "Treasurer" means the Treasurer of Ontario and Minister of Economics, or where a collection agreement is entered into, means,

- i. in relation to the remittance of any amount as or on account of tax payable under this Act, the Receiver General for Canada, and
- ii. in relation to any other matter, the Minister. 1961-62, c. 60, s. 1 (1), *amended*; 1961-62, c. 61, s. 1 (1-3); 1962-63, c. 61, s. 1; 1970, c. 7, s. 1.

(2) The expression "last day of the taxation year" shall, in the case of an individual who resided in Canada at any time in the taxation year but ceased to reside in Canada before the last day thereof, be deemed to be a reference to the last day in the taxation year on which he resided in Canada. 1961-62, c. 61, s. 1 (4).

(3) The tax payable by a taxpayer under this Act or under Part I of the Federal Act means the tax payable by him as fixed by assessment or reassessment subject to variation on objection or on appeal, if any, in accordance with this Act or Part I of the Federal Act, as the case may be.

(4) For the purposes of this Act, except where they are at variance with the definitions contained in this section, the definitions and interpretations contained in or made by regulation under the Federal Act apply.

(5) In any case of doubt, the provisions of this Act shall be applied and interpreted in a manner consistent with similar provisions of the Federal Act. 1961-62, c. 60, s. 1 (3-5).

## PART II—INCOME TAX

### DIVISION A — LIABILITY FOR TAX

**2.—(1)** An income tax shall be paid as hereinafter required for each taxation year by every individual other than an individual to whom subsection 2 applies,

Income tax  
on indi-  
viduals

- (a) who was resident in Ontario on the last day of the taxation year; or
- (b) who, not being resident in Ontario on the last day of the taxation year, had income earned in the taxation year in Ontario as defined in clause *b* of subsection 4 of section 3.

Income tax  
on members  
of the  
Canadian  
Forces

(2) An income tax shall be paid as hereinafter required for each taxation year by every individual who, during the taxation year, was a member of the Canadian Forces to whom section 4 applies. 1967, c. 39, s. 1, *part*.

## DIVISION B — COMPUTATION OF TAX

### INDIVIDUAL INCOME TAX

Rate,  
individuals

**3.—**(1) The tax payable under this Act for a taxation year by an individual who resided in Ontario on the last day of the taxation year and had no income earned in the taxation year outside Ontario is the percentage of the tax payable under the Federal Act for that year specified in subsection 3.

Idem

(2) The tax payable under this Act for a taxation year by an individual,

- (a) who resided in Ontario on the last day of the taxation year but had income earned in the taxation year outside Ontario; or
- (b) who did not reside in Ontario on the last day of the taxation year but had income earned in the taxation year in Ontario,

is the amount that bears the same relation to the percentage of the tax payable under the Federal Act for that year specified in subsection 3 that his income earned in the taxation year in Ontario bears to his income for the year. 1961-62, c. 60, s. 3 (1, 2).

Idem

(3) For the purposes of this section, the percentage of the tax payable under the Federal Act to be used for computing the tax payable under this section is,

- (a) 16 per cent in respect of the 1962 taxation year;
- (b) 17 per cent in respect of the 1963 taxation year;
- (c) 18 per cent in respect of the 1964 taxation year;
- (d) 21 per cent in respect of the 1965 taxation year;
- (e) 24 per cent in respect of the 1966 taxation year; and
- (f) 28 per cent in respect of the 1967, 1968, 1969, 1970 and 1971 taxation years. 1961-62, c. 60, s. 3 (3); 1965, c. 50, s. 1; 1967, c. 39, s. 2; 1968, c. 55, s. 1; 1968-69, c. 51, s. 1; 1970, c. 111, s. 1, *amended*.

(4) In this section,

Interpre-  
tation

- (a) “tax payable under the Federal Act” means the amount of tax payable under Part I of the Federal Act for the taxation year in respect of which that expression is being applied, minus any amount included in computing that amount by virtue of subsection 3 of section 10 of the *Old Age Security Act* (Canada), plus any amount deducted in computing that amount by virtue of sections 33 and 41 of the Federal Act; R.S.C. 1952,  
c. 200
- (b) “income earned in the taxation year in Ontario” means the income earned in the taxation year in Ontario as determined in accordance with regulations made under paragraph *a* of subsection 3 of section 33 of the Federal Act;
- (c) “income earned in the taxation year outside Ontario” means income for the year minus income earned in the taxation year in Ontario;
- (d) “income for the year” means,
  - (i) in the case of an individual resident in Canada during part only of the taxation year in respect of whom section 29 of the Federal Act applies, his income for the period or periods in the year referred to in paragraph *a* of that section as determined in accordance with and for the purposes of the Federal Act,
  - (ii) in the case of an individual not resident in Canada at any time during the taxation year, his income for the year from all duties performed by him in Canada and all businesses carried on by him in Canada as determined in accordance with and for the purposes of the Federal Act, and
  - (iii) in the case of any other individual, his income for the year as determined in accordance with and for the purposes of the Federal Act; and
- (e) “individual” does not include an individual who was a member of the Canadian Forces during the taxation year to which section 4 applies. 1961-62, c. 60, s. 3 (4); 1961-62, c. 61, s. 3; 1962-63, c. 61, s. 2 (1).

(5) An individual who, under the Federal Act, pays tax computed in accordance with subsection 2 of section 32 thereof may, in lieu of the tax under subsection 1, pay a tax computed in accordance with a prescribed table which shall be prepared in accordance with the following rules: Special  
table

1. The table shall be divided into ranges of amounts not exceeding \$10 each and specifying the tax payable on every amount taxable within each range.



2. The tax payable on amounts taxable within one of the ranges referred to in paragraph 1 shall be the amount in dollars and even tenths parts thereof that is nearest to the aggregate of the taxes otherwise payable under subsection 1 on the average of the highest and lowest amounts in the range. 1962-63, c. 61, s. 2 (2), *part*.

Foreign  
tax credit

(6) Where an individual resided in Ontario on the last day of a taxation year and had income for the year that included income earned in a country other than Canada in respect of which any income or profits tax was paid to the government of such other country, he may deduct from the tax payable by him under this Act for that taxation year an amount equal to the lesser of,

- (a) the amount, if any, by which the tax paid to the government of such other country in respect of his income for the year exceeds the amount allowed under the Federal Act as a deduction for that taxation year by virtue of section 41 of that Act; or
- (b) that proportion of the deduction allowed to the taxpayer for that taxation year by virtue of subsection 1 of section 33 of the Federal Act that,
  - (i) the taxpayer's income earned in such other country for that year is of
  - (ii) his income for the year. 1962-63, c. 61, s. 2 (2), *part*; 1966, c. 69, s. 2 (2).

## DIVISION C — SPECIAL CASES

### ARMED FORCES

Allocation  
of tax on  
members  
of the  
Canadian  
Forces

**4.—(1)** This section applies to an individual who, during a taxation year, was a member of the Canadian Forces and who,

- (a) on the first day of a taxation month in the taxation year, performed his normal duties as a member of the Canadian Forces, or would have performed his normal duties as a member of the Canadian Forces if he had not been on temporary duty or on temporary attachment, at a place located within Ontario or on board a sea-going ship, the home port of which is located within Ontario;
- (b) was resident in Ontario on the last day of the taxation year and had income earned in the taxation year from sources other than employment as a member of the Canadian Forces during that taxation year; or
- (c) not being a resident in Ontario on the last day of the taxation year, had income earned in the taxation year in

Ontario from sources other than employment as a member of the Canadian Forces during that taxation year.

(2) The Lieutenant Governor in Council may by regulation provide for the determination of the amount of tax payable for a taxation year by an individual who was a member of the Canadian Forces during that taxation year to whom this section applies, based on rates applicable to other individuals under this Act, and may provide for the manner in which the tax so determined is to be paid.

Determina-  
tion of  
amount  
of tax

(3) In this section,

Interpre-  
tation

- (a) "income earned in the taxation year in Ontario from sources other than employment as a member of the Canadian Forces" has the same meaning as "income earned in the taxation year in Ontario" as defined in clause *b* of subsection 4 of section 3, except that, in applying that definition in the case of a member of the Canadian Forces, he shall be deemed to have had no income from employment as a member of the Canadian Forces in the taxation year and the amount of his income from sources other than his employment as a member of the Canadian Forces earned in that taxation year shall be computed with reference to the provisions of Part XXIII of the Federal Regulations;
- (b) "taxation month" means a taxation month as defined for the purposes of Part XXIII of the Federal Regulations. 1961-62, c. 61, s. 4.

#### FARMERS, FISHERMEN

**5.**—(1) Where an individual whose chief source of income has been farming or fishing during a taxation year (in this section referred to as the "year of averaging") has filed an election in accordance with subsection 1 of section 42 of the Federal Act for the year of averaging, the tax payable under this Part for the year of averaging is an amount determined by the following rules:

Averaging  
for  
farmers and  
fishermen

- (a) determine the amount (in this section referred to as the "average tax") for each year in the averaging period (which, in this section, has the meaning given to that expression under section 42 of the Federal Act) equal to the tax that would be payable under the Federal Act, within the meaning of section 3 of this Act, if the taxable income for the year were the average net income for the year within the meaning of paragraph *c* of subsection 1 of section 42 of the Federal Act;
- (b) determine the amount (in this section referred to as the "provincial tax") for each year in the averaging period equal to the tax that would be payable under this Part

for the year if the tax that would be payable under the Federal Act for the year, within the meaning of section 3 of this Act, were the average tax for the year;

- (c) deduct from the aggregate of the provincial taxes as determined under paragraph *b* for the years in the averaging period the aggregate of the taxes payable under this Part for the preceding years (which, in this section, has the meaning given to that expression under section 42 of the Federal Act),

and the remainder obtained under paragraph *c* is the tax payable under this Part for the year of averaging.

Idem

- (2) Subsection 1 applies only in the case of an individual who,
  - (a) throughout the averaging period,
    - (i) resided in Ontario, and
    - (ii) did not carry on a business with a permanent establishment (which, in this subsection, has the meaning given to that expression under the regulations made pursuant to section 33 of the Federal Act) outside Ontario; or
  - (b) throughout the averaging period,
    - (i) resided outside Ontario, and
    - (ii) had no income other than his income from the carrying on of a business with a permanent establishment in Ontario and nowhere else.

Idem

(3) For the purposes of this Act, where the tax payable by an individual under this Part for the year of averaging would, but for subsection 2, be an amount determined under subsection 1, the tax that would have been payable by the individual under the Federal Act for the year of averaging, within the meaning of section 3 of this Act, had no election been made by him under section 42 of the Federal Act for that year, shall be deemed to be the tax payable under the Federal Act by the individual for the year of averaging.

Idem

(4) Where this section, except subsection 3, is applicable to the computation of a taxpayer's tax for a taxation year and the aggregate of the taxes payable under this Part for the preceding years exceeds the aggregate of the provincial taxes as determined under paragraph *b* of subsection 1 for the years in the averaging period, the excess shall be deemed to be an overpayment made when the notice of assessment for the year of averaging was mailed. 1964, c. 43, s. 1, *part*.

Idem

(5) The provisions of this Part relating to the assessment of tax, interest and penalties apply *mutatis mutandis* to an assessment whereby, for the purposes of this section, it is determined by the Provincial Minister that no tax is payable under this Part for

the year of averaging or that an overpayment has been made as described in subsection 4. 1964, c. 43, s. 1, *part*; 1970, c. 7, s. 2.

(6) Where an election for a year of averaging filed under subsection 1 of section 42 of the Federal Act has been revoked by the taxpayer in accordance with subsection 4 of section 42 of the Federal Act, subsection 1 of this section is not applicable in determining the tax payable under this Part for the year of averaging. 1964, c. 43, s. 1, *part*. Idem

#### EXEMPTIONS

**6.** No tax is payable under this Act by any person for a period when that person was exempt from tax by virtue of subsection 1 of section 62 of the Federal Act, and any definitions or descriptions in the Federal Act applying to any such person apply *mutatis mutandis* for the purposes of this Act unless otherwise provided. 1961-62, c. 60, s. 5. Exemptions

### DIVISION D — RETURNS, ASSESSMENTS, PAYMENT AND APPEALS

#### RETURNS

**7.—(1)** A return for each taxation year for which a tax is payable under this Act shall, without notice or demand therefor, be filed with the Provincial Minister in prescribed form and containing prescribed information, Returns

- (a) in the case of a person who has died without making the return, by his legal representatives, within six months from the day of death;
- (b) in the case of an estate or trust, within ninety days from the end of the year;
- (c) in the case of any other person, on or before the 30th day of April in the next year, by that person or, if he is unable for any reason to file the return, by his guardian, curator, tutor, committee or other legal representative; or
- (d) in a case where no person described by clause *a* or *c* has filed the return, by such person as is required by notice in writing from the Provincial Minister to file the return, within such reasonable time as the notice specifies. 1961-62, c. 60, s. 6 (1); 1970, c. 7, s. 3 (1).

(2) Whether or not he is liable to pay tax under this Act for a taxation year and whether or not a return has been filed under subsection 1 or 3, every person shall, on demand by registered letter from the Provincial Minister, file, within such reasonable time as is stipulated in the registered letter, with the Provincial Minister in prescribed form and containing prescribed information a return for the taxation year designated in the letter. 1961-62, c. 60, s. 6 (2); 1970, c. 7, s. 3 (2). Return on demand



Trustees,  
etc.

(3) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of a person who has not filed a return for a taxation year as required by this section shall file a return in prescribed form for that year in respect of that person.

Death of  
partner,  
proprietor

(4) Where a partner or an individual who is a proprietor of a business died after the close of a fiscal period but before the end of the calendar year in which the fiscal period closed, a separate return for the period after the close of the fiscal period to the time of death may be filed and, if such a separate return is filed, the tax payable with respect to the period after the close of the fiscal period to the time of death shall be paid as if that tax were tax payable by another person. 1961-62, c. 60, s. 6 (3, 4).

#### ESTIMATE OF TAX

Estimate

**8.** Every person required by section 7 to file a return shall in the return estimate the amount of tax payable. 1961-62, c. 60, s. 7.

#### ASSESSMENT

Rules re  
assessment

**9.—(1)** The Provincial Minister shall, with all due despatch, examine each return required to be filed under this Act and assess the tax for the taxation year and the interest and penalties, if any, payable. 1961-62, c. 60, s. 8 (1); 1970, c. 7, s. 4 (1).

Idem

(2) After examination of a return, the Provincial Minister shall send a notice of assessment to the person by whom the return was filed. 1961-62, c. 60, s. 8 (2); 1970, c. 7, s. 4 (2).

Idem

(3) Liability for tax under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. 1961-62, c. 60, s. 8 (3).

Idem

(4) The Provincial Minister may at any time assess tax, interest or penalties under this Act or notify in writing any person by whom a return for a taxation year has been filed that no tax is payable for a taxation year, and may,

- (a) at any time, if the taxpayer or person filing the return,
  - (i) has made any misrepresentation or committed any fraud in filing the return or in supplying any information under this Act, or
  - (ii) has filed with the Provincial Minister a waiver in prescribed form within four years from the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year; and
- (b) within four years from the day referred to in subclause ii of clause a in any other case,

reassess or make additional assessments, or assess tax interest or penalties, as the circumstances require. 1961-62, c. 60, s. 8 (4); 1970, c. 7, s. 4 (3).

(5) Where a collection agreement is entered into, notwithstanding that more than four years have elapsed since the day referred to in subclause ii of clause *a* of subsection 4, the Minister shall reassess or make additional assessments, or assess tax, interest or penalties, as the circumstances require, where the tax payable under Part I of the Federal Act is reassessed. 1961-62, c. 60, s. 8 (5).

(6) Where a taxpayer has filed the return required by section 7 *Idem* for a taxation year and, within one year from the day on or before which he was required by section 7 to file the return for that year, has filed an amended return for the year claiming a deduction from income under paragraph *e* of subsection 1 of section 27 of the Federal Act, in respect of a business loss sustained in the taxation year immediately following that year, the Provincial Minister shall reassess the taxpayer's tax for the year. 1961-62, c. 60, s. 8 (6); 1970, c. 7, s. 4 (4).

(7) The Provincial Minister is not bound by a return or *Idem* information supplied by or on behalf of a taxpayer and, in making an assessment, may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable under this Act. 1961-62, c. 60, s. 8 (7); 1970, c. 7, s. 4 (5).

(8) An assessment shall, subject to being varied or vacated on *Idem* an objection or appeal under this Act and subject to a reassessment, be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. 1961-62, c. 60, s. 8 (8).

#### PAYMENT OF TAX

#### **10.**—(1) Every person paying,

Deductions  
at source

- (a) salary or wages or other remuneration to an officer or employee;
- (b) a superannuation or pension benefit;
- (c) a retiring allowance;
- (d) an amount upon or after the death of an officer or employee, in recognition of his services, to his legal representative or widow or to any other person whatsoever;
- (e) an amount as a benefit under a supplementary unemployment benefit plan;
- (f) an annuity payment;
- (g) fees, commissions or other amounts for services; or

- (h) a payment under a deferred profit-sharing plan or a plan referred to in section 79C of the Federal Act as a revoked plan,

at any time in a taxation year shall deduct or withhold therefrom such amount as is prescribed and shall, at such time as is prescribed, remit that amount to the Treasurer on account of the payee's tax for the year under this Act.

Payment of  
remainder

(2) Where amounts have been deducted or withheld under this section from the remuneration received by an individual in a taxation year, if the total of such amounts is equal to or greater than three-quarters of the tax payable for the year, he shall, on or before the 30th day of April in the next year, pay to the Treasurer the remainder of his tax for the year as estimated under section 8.

Effect of  
deduction

(3) Where an amount has been deducted or withheld under subsection 1, it shall, for all the purposes of this Act, be deemed to have been received at that time by the person to whom the remuneration, benefit, payment, fees, commissions or other amounts were paid. 1961-62, c. 60, s. 9.

Farmers  
and  
fishermen

**11.—**(1) Every individual whose chief source of income is farming or fishing shall pay to the Treasurer,

- (a) on or before the 31st day of December in each taxation year, two-thirds of the tax as estimated by him at the rate for the year on his estimated tax payable under the Federal Act for the year or on his tax payable under the Federal Act for the immediately preceding year; and
- (b) on or before the 30th day of April in the next year the remainder of the tax as estimated under section 8.

Idem, where  
collection  
agreement

(2) Where a collection agreement is entered into, an individual to whom subsection 1 applies shall pay an amount under clause *a* thereof computed in respect of the same year as the amount is computed that he is liable to pay under paragraph *a* of section 48 of the Federal Act. 1961-62, c. 60, s. 10.

All others

**12.—**(1) Every individual, other than one to whom subsection 2 of section 10 or section 11 applies, shall pay to the Treasurer,

- (a) on or before the 31st day of March, the 30th day of June, the 30th day of September and the 31st day of December, respectively, in each taxation year, an amount equal to one-quarter of the tax as estimated by him at the rate for the year on his estimated tax payable under the Federal Act for the year or on his tax payable under the Federal Act for the immediately preceding year; and
- (b) on or before the 30th day of April in the next year, the remainder of the tax as estimated under section 8.

(2) Where a collection agreement is entered into, an individual to whom subsection 1 applies shall pay an amount under clause *a* thereof computed in respect of the same year as the amount is computed that he is liable to pay under paragraph *a* of section 49 of the Federal Act. Idem, where collection agreement

(3) For the purposes of section 11 and this section, "tax payable under the Federal Act" for a taxation year has the meaning given that expression in clause *a* of subsection 4 of section 3, whether such taxation year is before or after the coming into force of this Act. 1961-62, c. 60, s. 11. Interpretation

**13.**—(1) The taxpayer shall, within thirty days from the day of mailing of the notice of assessment, pay to the Treasurer any part of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding. 1961-62, c. 60, s. 12 (1). Payment of remainder

(2) Where, in the opinion of the Provincial Minister, a taxpayer is attempting to avoid payment of taxes, the Provincial Minister may direct that all taxes, penalties and interest be paid forthwith upon assessment. 1961-62, c. 60, s. 12 (2); 1970, c. 7, s. 5. Payment forthwith

**14.** Sections 52 and 53, subsection 2 of section 63, paragraph *e* of subsection 13 of section 63 and paragraph *a* of subsection 2 of section 64 of the Federal Act apply *mutatis mutandis* in respect of the payment of tax under this Act for a taxation year by a taxpayer subject to tax under this Act to whom such provisions apply in respect of tax payable under the Federal Act for the same taxation year. 1961-62, c. 61, s. 5. Application of certain provisions

#### INTEREST

**15.**—(1) Where the amount paid on account of tax payable by a taxpayer under this Act for a taxation year before the expiration of the time allowed for filing the return for that year is less than the amount of tax payable for the year under this Act, the person liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return to the day of payment at the rate of 6 per cent per annum. General

(2) In addition to the interest payable under subsection 1, where a taxpayer, being required by this Act to pay a part or instalment of tax, has failed to pay all or any part thereof as required, he shall, on payment of the amount he failed to pay, pay interest at 6 per cent per annum from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he becomes liable to pay interest thereon under subsection 1, whichever is earlier. Interest on instalments



Limitation

(3) For the purposes of subsection 2, where a taxpayer is required to pay a part or instalment of tax for a taxation year as estimated by him with reference to a preceding year or with reference to the taxation year, he shall be deemed to have been liable to pay a part or instalment computed by reference to his tax for,

(a) the preceding year; or

(b) the taxation year,

whichever is the lesser.

Instalments,  
where  
collection  
agreement

(4) Notwithstanding subsection 3, where a collection agreement is entered into, for the purposes of subsection 2 the taxpayer shall be deemed to have been liable to pay a part or instalment computed by reference to his tax for the same year as the year by reference to which the part or instalment that he is deemed by subsection 4 of section 54 of the Federal Act to be liable to pay was computed.

Participa-  
tion cer-  
tificates

(5) Notwithstanding any other provision in this section no interest is payable in respect of the amount by which the tax payable by a person is increased by a payment made by the Canadian Wheat Board on a participation certificate previously issued to him until thirty days after the payment is made. 1961-62, c. 60, s. 14 (1-5).

Where  
income  
in other  
countries  
barred from  
Canada

(6) Where the income of a taxpayer for a taxation year, or part thereof, is from sources in another country and the taxpayer by reason of monetary or exchange restrictions imposed by the law of that country is unable to transfer it to Canada, the Provincial Minister may, if he is satisfied that payment as required by this Act of the whole of the additional tax under this Act for the year reasonably attributable to income from sources in that country would impose extreme hardship on the taxpayer, postpone the time for payment of the whole or a part of that additional tax for a period to be determined by the Provincial Minister, but no such postponement may be granted if any of the income for the year from sources in that country has been,

(a) transferred to Canada;

(b) used by the taxpayer for any purpose whatsoever, other than payment of income tax to the government of that other country on income from sources therein; or

(c) disposed of by him,

and no interest is payable under this section in respect of that additional tax, or part thereof, during the period of postponement. 1961-62, c. 60, s. 14 (6); 1970, c. 7, s. 6.

Effect of  
carry back  
of loss

(7) Where a taxpayer is entitled to deduct under section 27 of the Federal Act in computing his taxable income for a taxation year an amount in respect of a loss sustained in the taxation year

immediately following the taxation year (hereinafter in this subsection referred to as "the loss year"), for the purpose of computing interest under subsection 1 or 2 on tax or a part or instalment of tax for the taxation year for any portion of the period in respect of which the interest is payable on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the taxpayer were not entitled to deduct any amount under section 27 of the Federal Act in respect of that loss. 1961-62, c. 60, s. 14 (7).

# PENALTIES

**16.**—(1) Every person who has failed to make a return as and when required by subsection 1 of section 7 is liable to a penalty of, Failure to make return

- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be filed, if the tax payable under this Act that was unpaid at that time was less than \$2,000; and
- (b) \$100, if at the time the return was required to be filed tax payable under this Act equal to \$2,000 or more was unpaid.

(2) Every person who has failed to file a return as required by subsection 3 of section 7 is liable to a penalty of \$10 for each day of default but not more than \$50 in all. 1961-62, c. 60, s. 15 (1, 2). Idem

(3) Every person who has failed to complete the information on a prescribed form as required by or pursuant to section 7 is, unless the Provincial Minister has waived it, liable to a penalty, Failure to complete information

- (a) of 1 per cent of the tax payable under this Act but, whether he is taxable or not, not less than \$25 or more than \$100; or
- (b) of such lesser amount as the Provincial Minister has fixed in respect of the specific failure. 1961-62, c. 60, s. 15 (3); 1970, c. 7, s. 7.

(4) Where a collection agreement is entered into, the Minister may refrain from levying or may reduce a penalty provided in this section, if the person who is liable to such penalty is required to pay a penalty under section 55 of the Federal Act. 1961-62, c. 60, s. 15 (4). Idem, where collection agreement

**17.** Every person who, knowingly or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made, or has participated in, assented to or acquiesced in the making of, a statement or omission in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation, as a result of which the tax that would have been payable by him for a taxation year if the tax had been assessed on the basis of the Statements and omissions in returns

information provided in the return, certificate, statement or answer is less than the tax payable by him for the year, is liable to a penalty of 25 per cent of the amount by which the tax that would so have been payable is less than the tax payable by him for the year. 1961-62, c. 60, s. 16.

#### REFUND OF OVERPAYMENT

Refunds

**18.**—(1) If the return required to be filed by a taxpayer for a taxation year has been made within four years from the end of the year, the Provincial Minister,

- (a) may, upon mailing the notice of assessment for the year, refund, without application therefor, any overpayment made on account of the tax; and
- (b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the taxpayer within four years from the end of the year. 1961-62, c. 60, s. 17 (1); 1970, c. 7, s. 8 (1).

Application  
to other  
taxes

(2) Instead of making a refund that might otherwise be made under this section, the Provincial Minister may, where the taxpayer is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the taxpayer of that action. 1961-62, c. 60, s. 17 (2); 1970, c. 7, s. 8 (2).

Interest  
on over-  
payments

(3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at the rate of 3 per cent per annum shall be paid or applied thereon for the period commencing with the latest of,

- (a) the day when the overpayment arose;
- (b) the day on or before which the return in respect of which the tax was paid was required to be filed; or
- (c) the day when the return was actually filed,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection. 1961-62, c. 60, s. 17 (3).

Idem,  
after court  
judgment

(4) Where, by a decision of the Provincial Minister under section 19 or by a decision of the Supreme Court of Ontario or the Supreme Court of Canada, it is finally determined that the tax payable by a taxpayer for a taxation year under this Act is less than the amount assessed by the assessment under section 9 to which the objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the taxation year, the interest payable under subsection 3 on that overpayment shall be computed at 6 per cent instead of 3 per cent. 1961-62, c. 60, s. 17 (4); 1970, c. 7, s. 8 (3).



(5) Where a collection agreement is entered into and, by virtue of a decision referred to in subsection 3a of section 57 of the Federal Act, that subsection applies to any overpayment made under that Act in respect of tax payable by a taxpayer for a taxation year, subsection 4 of this section applies to any overpayment made under this Act in respect of the same year that arose by virtue of the same decision. Idem

(6) For the purpose of this section, "overpayment" means the aggregate of all amounts paid on account of tax minus all amounts payable under this Act or an amount so paid where no amount is so payable. Interpretation

(7) Where a taxpayer is entitled to deduct under section 27 of the Federal Act in computing his taxable income for a taxation year an amount in respect of a loss sustained in the taxation year immediately following the taxation year (hereinafter in this subsection referred to as "the loss year"), and the amount of the tax payable for the taxation year is relevant in determining an overpayment for the purpose of computing interest under subsection 3 for any portion of a period ending on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the taxpayer were not entitled to deduct any amount under section 27 of the Federal Act in respect of that loss. 1961-62, c. 60, s. 17 (5-7). Effect of carry back of loss

#### OBJECTIONS TO ASSESSMENTS

**19.**—(1) A taxpayer who objects to an assessment under this Act may, within ninety days from the day of mailing of the notice of assessment, serve on the Provincial Minister a notice of objection in duplicate in prescribed form setting out the reasons for the objection and all relevant facts. 1961-62, c. 60, s. 18 (1); 1970, c. 7, s. 9 (1). Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Provincial Minister. 1961-62, c. 60, s. 18 (2); 1970, c. 7, s. 9 (2). Service of notice

(3) Upon receipt of the notice of objection, the Provincial Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess and he shall thereupon notify the taxpayer of his action by registered mail. 1961-62, c. 60, s. 18 (3); 1970, c. 7, s. 9 (3). Reconsideration

(4) A reassessment made by the Provincial Minister pursuant to subsection 3 is not invalid by reason only of not having been made within four years from the day of mailing of a notice of an original assessment or of a notification described in subsection 4 of section 9. 1961-62, c. 60, s. 18 (4); 1970, c. 7, s. 9 (4). Idem

(5) The Provincial Minister may accept a notice of objection under this section notwithstanding that it was not served in Acceptance of notice



duplicate or in the manner required by subsection 2. 1970, c. 7, s. 9 (5).

DIVISION E — APPEALS TO THE SUPREME COURT OF  
ONTARIO

Right of  
appeal of  
taxpayer

**20.**—(1) A taxpayer who has served a notice of objection to an assessment under subsection 1 of section 19 may appeal to the Supreme Court to have the assessment vacated or varied after either,

- (a) the Provincial Minister has confirmed the assessment or reassessed; or
- (b) 180 days have elapsed after service of the notice of objection and the Provincial Minister has not notified the taxpayer that he has vacated or confirmed the assessment or reassessed,

but no appeal under this section may be instituted after the expiration of ninety days from the day notice has been mailed to the taxpayer in accordance with subsection 3 of section 19 that the Provincial Minister has confirmed the assessment or reassessed. 1961-62, c. 60, s. 19 (1); 1970, c. 7, s. 10 (1).

Basis for  
appeal

(2) An appeal from an assessment under this Act may be taken in respect of any question relating to the determination of,

- (a) his residence for the purposes of this Act;
- (b) his income earned in the taxation year in Ontario as defined in clause *b* of subsection 4 of section 3; or
- (c) the amount of tax payable for a taxation year based on the tax payable under the Federal Act for that year as defined in clause *a* of subsection 4 of section 3,

but no appeal from an assessment lies in respect of the computation of the tax payable under the Federal Act as defined in clause *a* of subsection 4 of section 3. 1962-63, c. 61, s. 3.

Notice of  
appeal

(3) An appeal under this section shall be instituted by serving upon the Provincial Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the court for the county or district in which the taxpayer appealing resides. 1961-62, c. 60, s. 19 (3); 1970, c. 7, s. 10 (2).

Service  
of notice

(4) A notice of appeal shall be served upon the Provincial Minister by being sent by registered mail addressed to the Provincial Minister. 1961-62, c. 60, s. 19 (4); 1970, c. 7, s. 10 (3).

Contents  
of notice

(5) The taxpayer appealing shall set out in the notice of appeal a statement of the allegations of fact, the statutory provisions and the reasons that he intends to submit in support of his appeal. 1961-62, c. 60, s. 19 (5).

Fee on  
appeal

(6) The taxpayer appealing shall pay to the Registrar of the Supreme Court or the local registrar of the court, as the case may

be, a fee of \$400, or such lesser amount as the Provincial Minister requires, upon the filing of the copy of the notice of appeal. 1961-62, c. 60, s. 19 (6); 1970, c. 7, s. 10 (4).

**21.**—(1) The Provincial Minister shall, within sixty days Reply from the day the notice of appeal is received or within such further time as a judge of the court may either before or after the expiration of that time allow, serve on the appellant and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on. 1961-62, c. 60, s. 20 (1); 1970, c. 7, s. 11.

(2) A judge of the court may, in his discretion, strike out a Striking out or amending notice of appeal notice of appeal or any part thereof for failure to comply with subsection 5 of section 20 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

(3) A judge of the court may, in his discretion, Idem

(a) strike out any part of a reply for failure to comply with this section or permit the amendment of a reply; or

(b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.

(4) Where a notice of appeal is struck out for failure to comply with subsection 5 of section 20 and a new notice of appeal is not filed as and when permitted by a judge of the court, a judge of the court may, in his discretion, dispose of the appeal by dismissing it. Disposal of appeal where notice struck out

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by a judge of the court within the time ordered, a judge of the court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true. 1961-62, c. 60, s. 20 (2-5). Disposal of appeal where reply struck out

**22.**—(1) Upon the filing of the material referred to in sections 20 and 21, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing. Appeal deemed an action

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court directs. 1961-62, c. 60, s. 21 (1, 2). Pleading of other matters

(3) The court may dispose of the appeal by, Disposal of appeal

(a) dismissing it;

(b) allowing it; or

- (c) allowing it and,
    - (i) vacating the assessment,
    - (ii) varying the assessment,
    - (iii) restoring the assessment, or
    - (iv) referring the assessment back to the Provincial Minister for reconsideration and reassessment.
- 1961-62, c. 60, s. 21 (3); 1970, c. 7, s. 12 (1).

Order for  
payment

(4) The court may, in delivering judgment disposing of an appeal, order payment or repayment of tax, interest, penalties or costs by the taxpayer or the Provincial Minister. 1961-62, c. 60, s. 21 (4); 1970, c. 7, s. 12 (2).

Proceedings  
*in camera*

**23.** Proceedings under this Division shall be held *in camera* upon request made to the court by the taxpayer. 1961-62, c. 60, s. 22.

S.C.O.  
practice  
to govern

**24.** The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 22, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. 1961-62, c. 60, s. 23.

Irregu-  
larities

**25.** An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act or of the Federal Act where such provision in that Act applies in respect of any action under this Act. 1961-62, c. 60, s. 24.

### PART III — ADMINISTRATION AND ENFORCEMENT

#### ADMINISTRATION

Administra-  
tion of Act

**26.**—(1) The Provincial Minister shall administer and enforce this Act and control and supervise all persons employed to carry out or enforce this Act and the Deputy Minister of Revenue may exercise all the powers and perform the duties of the Provincial Minister under this Act. 1970, c. 7, s. 13 (1).

Extensions  
of time  
for returns

(2) The Provincial Minister may at any time extend the time for making a return under this Act. 1961-62, c. 60, s. 25 (2); 1970, c. 7, s. 13 (2).

Security  
for taxes

(3) The Provincial Minister may, if he considers it advisable in a particular case, accept security for payment of taxes by way of mortgage or other charge of any kind whatsoever on property of

the taxpayer or any other person or by way of guarantee from other persons. 1961-62, c. 60, s. 25 (3); 1970, c. 7, s. 13 (3).

(4) Any person employed in connection with the administration or enforcement of this Act may, in the course of his employment, Administration of oaths

- (a) if he is designated by the Provincial Minister for the purpose; or
- (b) where a collection agreement is entered into, if he is a person designated by the Minister under the Federal Act for the purposes of subsection 5 of section 116 of that Act,

administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act or the regulations and every person so designated has for such purposes all the powers of a commissioner for taking affidavits. 1961-62, c. 60, s. 25 (4); 1970, c. 7, s. 13 (4).

**27.**—(1) The Lieutenant Governor in Council may make Regulations regulations,

- (a) prescribing anything that, by this Act, is to be prescribed or is to be determined or regulated by regulation;
- (b) providing in any case of doubt the circumstances in which, and extent to which, the Federal Regulations apply; and
- (c) generally to carry out the purposes of this Act.

(2) Except to the extent that they are inconsistent with any regulations made under subsection 1 or are expressed by any regulation made under subsection 1 to be inapplicable, the Federal Regulations made under section 117 of the Federal Act apply *mutatis mutandis* for the purposes of this Act with respect to all matters enumerated in that section. Application of Federal Regulations

(3) No regulation made under this Act or under the Federal Act where it is applicable *mutatis mutandis* has effect for the purposes of this Act until it has been published in *The Ontario Gazette* or the *Canada Gazette*, as the case may be, but, when so published, a regulation is, if it so provides, effective with reference to a period before it was published. 1961-62, c. 60, s. 26. Publication of regulations

#### ENFORCEMENT

**28.** All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to Her Majesty in right of Ontario and are recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act. 1961-62, c. 60, s. 27. Taxes, etc., are debts



Certificate  
of in-  
debtedness

**29.**—(1) An amount payable under this Act that has not been paid or such part of an amount payable under this Act as has not been paid may be certified by the Provincial Minister,

- (a) where there has been a direction by the Provincial Minister under subsection 2 of section 13, forthwith after such direction; and
- (b) otherwise, upon the expiration of thirty days after the default. 1961-62, c. 60, s. 28 (1); 1970, c. 7, s. 14.

Registration  
of  
certificate

(2) On production to the Supreme Court, a certificate made under this section shall be registered in the court and, when registered, has the same force and effect and all proceedings may be taken thereon as if the certificate were a judgment obtained in the court for a debt of the amount specified in the certificate plus interest to the day of payment as provided for in this Act.

Recovery of  
costs, etc.

(3) All reasonable costs and charges attendant upon the registration of the certificate are recoverable in like manner as if they had been certified and the certificate had been registered under this section. 1961-62, c. 60, s. 28 (2, 3).

Warrant for  
collection  
of in-  
debtedness

**30.** The Provincial Minister may issue a warrant, directed to the sheriff of any county or district in which any property of the taxpayer is located or situate, for the amount of the tax, interest and penalty or any of them owing by the taxpayer, together with interest thereon from the date of the issue of the warrant and the costs, expenses and bonding of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. 1962-63, c. 61, s. 4; 1970, c. 7, s. 15.

Requisition  
of moneys  
owed to  
taxpayer

**31.**—(1) Where the Provincial Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable to that person in whole or in part to the Treasurer on account of the liability under this Act. 1961-62, c. 60, s. 29 (1); 1970, c. 7, s. 16 (1).

Effect of  
receipt

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. 1961-62, c. 60, s. 29 (2).

Continuing  
effect of  
requisition

(3) Where the Provincial Minister has, under this section, required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as is stipulated

by the Provincial Minister in the registered letter. 1961-62, c. 60, s. 29 (3); 1970, c. 7, s. 16 (2).

(4) Every person who has discharged any liability to a person liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount which he was required under this section to pay to the Treasurer, whichever is the lesser.

Penalty for failure to comply

(5) Where the person who is or is about to become indebted or liable carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

Service on certain firms

(6) Where the persons who are or are about to become indebted or liable carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. 1961-62, c. 60, s. 29 (4-6).

Service on partnership

**32.—**(1) Where a person has failed to make a payment as required by this Act, the Provincial Minister, on giving ten days notice by registered mail addressed to his last known place of residence, may, whether or not there is an objection to or appeal in respect of the assessment not disposed of, issue a certificate of the failure and direct that the goods and chattels of the person in default that are located in Ontario be seized. 1961-62, c. 60, s. 30 (1); 1970, c. 7, s. 17.

Seizure of goods on default in payment

(2) Property seized under this section shall be kept for ten days at the cost and charges of the owner and, if he does not pay the amount due together with the costs and charges within the ten days, the property seized shall be sold by public auction.

Sale of goods seized

(3) Except in the case of perishable goods, notice of the sale setting forth the time and place thereof, together with a general description of the property to be sold shall, a reasonable time before the goods are sold, be published at least once in one or more newspapers of general local circulation.

Notice of sale

(4) Any surplus resulting from the sale after deduction of the amount owing and all costs and charges shall be paid or returned to the owner of the property seized.

Disposal of surplus

(5) Such goods and chattels of any person in default as would be exempt from seizure under a writ of execution issued out of the

Exemptions from seizure

Supreme Court are exempt from seizure under this section. 1961-62, c. 60, s. 30 (2-5).

Demand  
for  
payment

**33.**—(1) Where the Provincial Minister suspects that a taxpayer is about to leave Ontario or Canada, he may before the day otherwise fixed for payment, by notice served personally or by registered letter addressed to the taxpayer, demand payment of all taxes, interest and penalties for which the taxpayer is liable or would be liable if the time for payment had arrived and the same shall be paid forthwith notwithstanding any other provision of this Act. 1961-62, c. 7, s. 31 (1); 1970, c. 7, s. 18 (1).

Seizure of  
goods for  
failure to  
comply  
with  
demand

(2) Where a person has failed to pay tax, interest or penalties demanded under this section as required, the Provincial Minister may direct that the goods and chattels of the taxpayer that are located in Ontario be seized and subsections 2 to 5 of section 32 are thereupon applicable *mutatis mutandis*. 1961-62, c. 60, s. 31 (2); 1970, c. 7, s. 18 (2).

Certain  
actions  
barred

**34.**—(1) No action lies against any person for withholding or deducting any sum of money in compliance or intended compliance with this Act.

Returns by  
employees

(2) Every person whose employer is required to deduct or withhold any amount from his remuneration under section 10 shall, from time to time as prescribed, file a return with his employer in prescribed form.

Effect of  
failure to  
file return

(3) Every person failing to file a form as required by subsection 2 is liable to have the deduction or withholding from his salary or wages under section 10 made as though he were an unmarried person without dependants.

Trust  
created

(4) Every person who deducts or withholds any amount under this Act shall be deemed to hold the amount so deducted or withheld in trust for Her Majesty in right of Ontario.

Deductions  
to be kept  
separate

(5) All amounts deducted or withheld by a person under this Act shall be kept separate and apart from his own moneys and, where a collection agreement is entered into, such amounts shall be kept with amounts deducted or withheld by that person under the Federal Act.

Penalty for  
failure  
to deduct

(6) Any person who has failed to deduct or withhold any amount as required by this Act or a regulation is liable to pay to Her Majesty in right of Ontario,

- (a) if the amount should have been deducted or withheld under section 10 from an amount that has been paid to a person resident in Ontario, 10 per cent of the amount that should have been deducted or withheld; and
- (b) in any other case, the whole amount that should have been deducted or withheld,

together with interest thereon at the rate of 10 per cent per annum.



(7) Every person who has failed to remit or pay an amount deducted or withheld as required by this Act or a regulation is liable to a penalty of 10 per cent of that amount or \$10, whichever is the greater, in addition to the amount itself, together with interest on the amount at the rate of 10 per cent per annum; but, where a collection agreement is entered into, the Minister may refrain from levying or reduce the penalty if the person who is liable therefor is liable to pay a penalty under subsection 9 of section 123 of the Federal Act by reason of a failure to pay an amount described in paragraph *a* of that subsection. 1961-62, c. 60, s. 32 (1-7). Penalty for failure to remit

(8) The Provincial Minister may assess any person for any amount that has been deducted or withheld by that person under this Act or a regulation or that is payable by that person under this section and, upon his sending a notice of assessment to that person, Division D of Part II is applicable *mutatis mutandis*. 1961-62, c. 60, s. 32 (8); 1970, c. 7, s. 19. Assessment for amount deducted

(9) The provisions of this Act that require a person to deduct or withhold an amount in respect of taxes from amounts payable to a taxpayer are applicable to Her Majesty in right of Ontario. Deduction provisions applicable to Crown

(10) Where this Act requires an amount to be deducted or withheld, an agreement by the person on whom that obligation is imposed not to deduct or withhold is void. Agreements not to deduct void

(11) The receipt of the Treasurer for an amount withheld or deducted by any person as required by or under this Act is a good and sufficient discharge of the liability of any debtor to his creditor with respect thereto to the extent of the amount referred to in the receipt. 1961-62, c. 60, s. 32 (9-11). Effect of receipt

#### GENERAL

**35.**—(1) Every person carrying on business in Ontario and every person who is required, by or pursuant to this Act, to pay or collect taxes or other amounts shall keep records and books of account (including an annual inventory kept in prescribed manner) at his place of business or residence in Ontario or at such other place as is designated by the Provincial Minister, in such form and containing such information as will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected to be determined. 1961-62, c. 60, s. 33 (1); 1970, c. 7, s. 20 (1). Records to be kept

(2) Where a person has failed to keep adequate records and books of account for the purposes of this Act, the Provincial Minister may require him to keep such records and books of account as he specifies and that person shall thereafter keep records and books of account as so required. 1961-62, c. 60, s. 33 (2); 1970, c. 7, s. 20 (2). Idem



Retention  
of records

(3) Every person required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Provincial Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such record or book of account. 1961-62, c. 60, s. 33 (3); 1970, c. 7, s. 20 (3).

Right of  
entry, etc.

**36.**—(1) Any person thereunto authorized by the Provincial Minister for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any business is carried on in Ontario or any property is kept or anything is done in connection with any business or any books or records are, or should be, kept pursuant to this Act, and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the owner or manager of the property or business and any other person on the premises or place to give him all reasonable assistance with his audit or examination and to answer all proper questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require the owner or manager to attend at the premises or place with him; and
- (d) if, during the course of an audit or examination, it appears to him that there has been a contravention of this Act or a regulation, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings. 1961-62, c. 60, s. 34 (1); 1970, c. 7, s. 21 (1).

Requisition  
of  
information

(2) The Provincial Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person,

- (a) any information or additional information, including a return of income or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents,

within such reasonable time as is stipulated therein. 1961-62, c. 60, s. 34 (2); 1970, c. 7, s. 21 (2).

(3) The Provincial Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Department of Revenue, together with such peace officers as he calls on to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place in Ontario for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or a regulation and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. 1961-62, c. 60, s. 34 (3); 1970, c. 7, s. 21 (3). Search warrants

(4) The Provincial Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Department of Revenue, to make such inquiry as he deems necessary with reference to anything relating to the administration or enforcement of this Act. 1961-62, c. 60, s. 34 (4); 1970, c. 7, s. 21 (4). Inquiries

(5) Where any book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Department of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Provincial Minister or a person thereunto authorized by the Provincial Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way. 1961-62, c. 60, s. 34 (5); 1970, c. 7, s. 21 (5). Certified copies of documents

(6) No person shall hinder or molest or interfere with any person doing anything that he is authorized by or pursuant to this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by or pursuant to this section to do. 1961-62, c. 60, s. 34 (6). Hindering

(7) Every person thereunto authorized by the Provincial Minister may administer or receive an oath, affirmation or statutory declaration required to be given by or pursuant to this section. 1961-62, c. 60, s. 34 (7); 1970, c. 7, s. 21 (6). Administration of oaths

(8) For the purpose of an inquiry authorized under subsection 4, the person authorized to make the inquiry has all the powers and authority that may be conferred on a commissioner appointed under *The Public Inquiries Act*. 1961-62, c. 60, s. 34 (8). Powers on inquiry  
R.S.O. 1970,  
c. 379

Application  
of s. 126A  
of Federal  
Act

**37.**—(1) Section 126A of the Federal Act applies *mutatis mutandis* for the purposes of this Act where, in the same or similar circumstances, that section is or would be applicable for the purposes of the Federal Act. 1961-62, c. 60, s. 35 (1).

Reference to  
Deputy  
Minister of  
Justice and  
Deputy A.G.

(2) For the purposes of this section, a reference to the Deputy Minister of Justice and Deputy Attorney General of Ontario shall be substituted for any reference to the Deputy Attorney General of Canada in section 126A of the Federal Act, but, where a collection agreement is entered into, section 126A of the Federal Act shall be read without such reference being substituted. 1961-62, c. 60, s. 35 (2), *amended*.

Filing of  
information  
on demand

**38.** Whether or not he has filed an information return as required by a regulation made under paragraph *d* of subsection 1 of section 117 of the Federal Act as it applies by virtue of subsection 2 of section 27 of this Act, every person shall, on demand by registered letter from the Provincial Minister, file within such reasonable time as is stipulated in the registered letter with the Provincial Minister such prescribed information return as is designated in the letter. 1961-62, c. 60, s. 36; 1970, c. 7, s. 22.

Penalty for  
failure to  
comply with  
regulations

**39.**—(1) Every person who fails to comply with a regulation made under paragraph *d* or *e* of subsection 1 of section 117 of the Federal Act, as it applies by virtue of subsection 2 of section 27 of this Act, is liable in respect of each failure to so comply to a penalty of \$10 a day for each day of default but not more than \$2,500 in all.

Idem

(2) Every person who fails to comply with a regulation made under section 27 or incorporated by reference by virtue of subsection 2 thereof is liable to a penalty of \$10 a day for each day of default but not more than \$2,500 in all. 1961-62, c. 60, s. 37.

Signature of  
corporations

**40.** A return, certificate or other document made by a corporation pursuant to this Act or a regulation shall be signed on its behalf by the president, secretary or treasurer of the corporation or by any other officer or person thereunto duly authorized by the board of directors or other governing body of the corporation. 1961-62, c. 60, s. 38.

#### OFFENCES

Offence,  
failure to  
file return

**41.**—(1) Every person who fails to file a return as and when required by or under this Act or a regulation is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of not less than \$25 for each day of default.



(2) Every person who fails to comply with or contravenes subsection 1 of section 10, subsection 5 of section 34, section 35 or section 36 is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to,

Offences,  
certain

- (a) a fine of not less than \$200 and not more than \$10,000; or
- (b) both the fine described in clause *a* and imprisonment for a term of not more than six months.

(3) Where a person has been convicted under this section of failing to comply with a provision of this Act or a regulation, he is not liable to pay a penalty imposed under section 16, 34 or 39 for the same failure unless he was assessed for that penalty or that penalty was demanded from him before the information giving rise to the conviction was laid. 1961-62, c. 60, s. 39.

Saving

**42.** Every person who has,

Offences,  
certain

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a taxpayer;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular in records or books of account of a taxpayer;
- (d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses *a* to *d*,

is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to,

- (f) a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded; or
- (g) both the fine described in clause *f* and imprisonment for a term of not more than two years. 1961-62, c. 60, s. 40.

**43.** Where a collection agreement is entered into and proceedings under section 131 or 132 of the Federal Act are taken against any person, the Minister may take or refrain from taking any action against such person contemplated by section 41 or 42 of this Act, as the case may be. 1961-62, c. 60, s. 41.

Ministerial  
discretion



Offence,  
secrecy

**44.**—(1) Every person who, while employed in the administration of this Act, has communicated or allowed to be communicated to a person not legally entitled thereto any information obtained under this Act or has allowed any such person to inspect or have access to any written statement furnished under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1961-62, c. 60, s. 42 (1).

Where  
subs. 1 not  
applicable

(2) Subsection 1 does not apply to the communication of information between,

- (a) the Minister and the Provincial Minister; or
- (b) the Minister, acting on behalf of Ontario, and the Provincial Minister, the Provincial Secretary-Treasurer, or the Minister of Finance of the government of,
  - (i) an agreeing province, or
  - (ii) a non-agreeing province to which an adjusting payment may be made under subsection 2 of section 52. 1962-63, c. 61, s. 5; 1970, c. 7, s. 23.

Liability of  
corporation  
officers

**45.** Where a corporation is guilty of an offence under this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. 1961-62, c. 60, s. 43.

No decrease  
in penalties

**46.** Notwithstanding any other statute or law in force at the commencement of this Act, a court has, in any prosecution or proceeding under this Act, no power to impose less than the minimum fine or imprisonment fixed by this Act and a court has no power to suspend sentence. 1961-62, c. 60, s. 44.

#### PROCEDURE AND EVIDENCE

Information

**47.**—(1) An information under this Act may be laid by any officer of the Department of Revenue, by a member of the Ontario Provincial Police Force, or by any person thereunto authorized by the Provincial Minister, and, where an information purports to have been laid under this Act, it shall be deemed to have been laid by a person thereunto authorized by the Provincial Minister and shall not be called in question for lack of authority of the informant except by the Provincial Minister or by some person acting for him or Her Majesty. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (1).

Two or  
more  
offences

(2) An information in respect of an offence under this Act may be for one or more offences, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences. 1962-63, c. 61, s. 6, *part*.

(3) An information under *The Summary Convictions Act* in respect of an offence under this Act may be laid on or before a day five years from the time when the matter of the information arose or within one year from the day on which evidence, sufficient in the opinion of the Provincial Minister to justify a prosecution for the offence, came to his knowledge, and the Provincial Minister's certificate as to the day on which such evidence came to his knowledge is conclusive evidence thereof. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (2).

Limitation  
of  
prosecutions  
R.S.O. 1970,  
c. 450

(4) Where, by this Act or a regulation, provision is made for sending by mail a request for information, notice or demand, an affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records, that he has knowledge of the facts in the particular case, that such a request, notice or demand was sent by registered letter on a named day to the person to whom it was addressed, indicating such address, and that he identifies as exhibits attached to the affidavit the post office certificate of registration of the letter or a true copy of the relevant portion thereof, and a true copy of the request, notice or demand, shall be received as *prima facie* evidence of the sending and of the request, notice or demand. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (3).

Proof of  
service  
by mail

(5) Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after a careful examination and search of the records he has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made by such person, shall be received as *prima facie* evidence that in such case that person did not make the return, statement, answer or certificate, as the case may be. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (4).

Proof of  
failure to  
comply

(6) Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after careful examination of such records he has found that the return, statement, answer or certificate was filed or made on a particular day, shall be received as *prima facie* evidence that it was filed or made on that day and not prior thereto. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (5).

Proof of  
time of  
compliance

(7) An affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that the document annexed thereto is a document or

Proof of  
documents

true copy of a document made by or on behalf of the Provincial Minister or some person exercising the powers of the Provincial Minister or by or on behalf of a taxpayer, shall be received as *prima facie* evidence of the nature and contents of the document and is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (6).

Proof of  
no appeal

(8) An affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and has knowledge of the practice of the Department and that an examination of the records shows that a notice of assessment for a particular taxation year was mailed or otherwise communicated to a taxpayer on a particular day pursuant to this Act and that, after careful examination and search of the records, he has been unable to find that a notice of objection or of appeal from the assessment was received within the time allowed therefor, shall be received as *prima facie* evidence of the statement contained therein. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (7).

Presumption

(9) Where evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Department of Revenue, it is not necessary to prove his signature or that he is such an officer, nor is it necessary to prove the signature or official character of the person before whom the affidavit is sworn. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (8).

Judicial  
notice

(10) Judicial notice shall be taken of,

- (a) all orders or regulations made under this Act; and
- (b) a collection agreement entered into under this Act or any agreement for the collection by Canada of the taxes imposed under the income tax statute of an agreeing province,

without such orders, regulations or agreements being specially pleaded or proven. 1962-63, c. 61, s. 6, *part*.

Proof of  
documents

(11) Every document purporting to be an order, direction, demand, notice, certificate, requirement, decision, assessment, discharge of mortgage or other document purporting to have been executed under, or in the course of administration or enforcement of, this Act over the name in writing of the Provincial Minister, his deputy, or an officer authorized by regulation to exercise powers or perform duties of the Provincial Minister under this Act, shall be deemed to be a document signed, made and issued by the Provincial Minister, his deputy or the officer unless it has been called in question by the Provincial Minister or by some person acting for him or Her Majesty. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (9).



(12) For the purposes of this Act, the day of mailing of any notice of assessment or notification described in subsection 4 of section 9 shall, in the absence of any evidence to the contrary, be deemed to be the day appearing from such notice or notification to be the date thereof unless called in question by the Provincial Minister or by some person acting for him or Her Majesty. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (10).

Mailing  
date

(13) Where any notice of an assessment has been sent by the Provincial Minister as required by this Act, the assessment shall be deemed to have been made on the day of mailing of the notice of assessment. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (11).

Date when  
assessment  
made

(14) Every form purporting to be a form prescribed or authorized by the Provincial Minister shall be deemed to be a form prescribed by order of the Provincial Minister under this Act unless called in question by the Provincial Minister or by some person acting for him or Her Majesty. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (12).

Forms pre-  
scribed or  
authorized

(15) A document purporting to be a collection agreement entered into under this Act or an agreement with Canada for the collection of tax imposed under the income tax statute of an agreeing province that is,

Proof of  
provision of  
collection  
agreements

- (a) published in the *Canada Gazette*; or
- (b) certified as such by or on behalf of,
  - (i) the Provincial Minister, or
  - (ii) the Provincial Treasurer, the Provincial Secretary-Treasurer or the Minister of Finance of the appropriate agreeing province,

shall be received as *prima facie* evidence of the contents thereof. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (13).

(16) In any prosecution for an offence under this Act, the production of a return, certificate, statement or answer required by or under this Act or a regulation, purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by him or on his behalf, shall be received as *prima facie* evidence that such return, certificate, statement or answer was filed or delivered by or on behalf of that person or was made or signed by him or on his behalf. 1962-63, c. 61, s. 6, *part*.

Proof of  
return

(17) Every certificate by the Provincial Minister as to,

- (a) a taxpayer's tax payable under the Federal Act as defined in clause *a* of subsection 4 of section 3; or
- (b) a taxpayer's income for the year as defined in clause *d* of subsection 4 of section 3,

Proof of  
certificate  
of the  
Provincial  
Minister

is *prima facie* evidence that a taxpayer's tax payable under the



Federal Act, or his income for the year, as the case may be, is the amount set out therein. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (14).

Certificates  
of the  
Minister of  
National  
Revenue and  
his officials

(18) Where a collection agreement is entered into, any document or certificate that is executed or issued by the Minister, the Deputy Minister of the Department of National Revenue for Taxation, or an official of the Department of National Revenue on behalf or in place of the Provincial Minister, his deputy or an officer of his Department, shall be deemed, for all purposes of this Act, to be executed or issued by the Provincial Minister, his deputy or an officer of the Department of Revenue, as the case may be. 1962-63, c. 61, s. 6, *part*; 1970, c. 7, s. 24 (15).

Royal  
Canadian  
Mounted  
Police

(19) Where a collection agreement is entered into, a reference in this section to the Ontario Provincial Police Force shall be construed as a reference to the Royal Canadian Mounted Police. 1962-63, c. 61, s. 6, *part*.

#### PART IV — COLLECTION OF TAX

##### COLLECTION AGREEMENT

Agreement  
authorized

**48.**—(1) The Treasurer, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Ontario, enter into a collection agreement with the Government of Canada pursuant to which the Government of Canada will collect taxes payable under this Act on behalf of Ontario and will make payments to Ontario in respect of the taxes so collected in accordance with such terms and conditions as the collection agreement prescribes.

Supple-  
mental  
agreements  
authorized

(2) The Treasurer, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Ontario, enter into an agreement amending the terms and conditions of a collection agreement entered into pursuant to subsection 1. 1961-62, c. 60, s. 46 (1, 2).

Transfer  
of powers  
and duties

(3) Where a collection agreement is entered into, the Minister, on behalf of, or as agent for, the Provincial Minister, is hereby authorized to employ all the powers, to perform all the duties and to exercise any discretion that the Provincial Minister or the deputy head has under this Act including the discretion to refuse to permit the production in judicial or other proceedings in Ontario of any document that it is not, in the opinion of the Minister, in the interests of public policy to produce. 1961-62, c. 60, s. 46 (3); 1970, c. 7, s. 25.

Idem

(4) Where a collection agreement is entered into, the Deputy Minister of National Revenue for Taxation of Canada may,

(a) employ all the powers, perform the duties and exercise any discretion that the Minister has under subsection 3 or otherwise under this Act; and

- (b) designate officers of his Department to carry out such functions, duties and powers as are similar to those that are exercised by them on his behalf under the Federal Act. 1961-62, c. 60, s. 46 (4).

#### PAYMENTS ON ACCOUNT

**49.**—(1) A collection agreement may provide that, where any payment is received by the Minister on account of tax payable by a taxpayer for a taxation year under this Act, the Federal Act or an income tax statute of another agreeing province, or under any two or more such Acts or statutes, the payment so received may be applied by the Minister towards the tax payable by the taxpayer under any such Act or statute in such manner as is specified in the agreement, notwithstanding that the taxpayer directed that the payment be applied in any other manner or made no direction as to its application. 1961-62, c. 60, s. 47 (1).

Application of payments by taxpayer

(2) Any payment or part thereof applied by the Minister in accordance with a collection agreement towards the tax payable by a taxpayer for a taxation year under this Act,

No further liability

- (a) relieves the taxpayer of liability to pay such tax to the extent of the payment or part thereof so applied; and
- (b) shall be deemed to have been applied in accordance with a direction made by the taxpayer. 1961-62, c. 61, s. 6.

#### DEDUCTIONS AT SOURCE

**50.** Where a collection agreement is entered into and an amount is remitted to the Minister under section 10 on account of the tax of an individual who is resident on the last day of the taxation year in another agreeing province,

Where no action by employee

- (a) no action lies for the recovery of such amount by that individual; and
- (b) the amount may not be applied in discharge of any liability of that individual under this Act. 1961-62, c. 61, s. 7.

**51.**—(1) Where a collection agreement is entered into, an individual resident in Ontario on the last day of the taxation year is not required to remit any amount on account of tax payable by him under this Act for the taxation year to the extent of the amount deducted or withheld on account of his tax for that year under the income tax statute of another agreeing province.

Application of tax paid by employee

(2) Where the total amount deducted or withheld on account of tax payable under this Act and under the income tax statute of another agreeing province by an individual resident in Ontario on the last day of the taxation year to whom subsection 1 applies exceeds the tax payable by him under this Act for that year,

Idem

section 18 of this Act applies in respect of such individual as though the excess were an overpayment under this Act. 1961-62, c. 60, s. 49.

Interpre-  
tation

**52.**—(1) In this section,

- (a) “adjusting payment” means a payment, calculated in accordance with this section, made by or on the direction of the Government of Ontario to a non-agreeing province;
- (b) “amount deducted or withheld” does not include any refund made in respect of that amount;
- (c) “non-agreeing province” means a province that is not an agreeing province. 1961-62, c. 61, s. 8, *part*; 1962-63, c. 61, s. 7 (1).

Adjustments  
between  
Ontario and  
non-  
agreeing  
province

(2) Where in respect of a taxation year a non-agreeing province is authorized to make a payment to Ontario that, in the opinion of the Treasurer, corresponds to an adjusting payment, the Lieutenant Governor in Council may authorize the Treasurer to make an adjusting payment to that non-agreeing province and enter into any agreement that may be necessary to carry out the purposes of this section. 1962-63, c. 61, s. 7 (2).

Basis of  
payment  
under  
collection  
agreement

(3) Where a collection agreement is entered into, the adjusting payment that may be made pursuant to subsection 2 may be made by the Government of Canada where it has agreed to act on the direction of Ontario as communicated by the Treasurer to the Minister. 1961-62, c. 61, s. 8, *part*.

Calculation  
of adjusting  
payment

(4) The adjusting payment to be made under this section shall be in an amount that is equal to the aggregate of the amounts deducted or withheld under section 10 in respect of the tax payable for a taxation year by individuals who,

- (a) file returns under the Federal Act;
- (b) are taxable thereunder in respect of that year; and
- (c) are resident on the last day of that year in the non-agreeing province to which the adjusting payment is to be made.

Where no  
action by  
employee

(5) Where an adjusting payment is to be made and there has been an amount deducted or withheld under section 10 on account of the tax for a taxation year of an individual who is taxable under the Federal Act in respect of that year and who is resident on the last day of that taxation year in the non-agreeing province,

- (a) no action lies for the recovery of such amount by that individual; and
- (b) the amount may not be applied in discharge of any liability of that individual under this Act. 1962-63, c. 61, s. 7 (3).

(6) Where an adjusting payment to a non-agreeing province is to be made under this section for a taxation year, an individual resident in Ontario on the last day of the taxation year is not required to remit any amount on account of tax payable by him under this Act for the taxation year to the extent of the amount deducted or withheld on account of his income tax for that year under the law of that non-agreeing province.

Application  
of tax paid  
by employee

(7) Where an adjusting payment to a non-agreeing province is to be made under this section for a taxation year, the total amount deducted or withheld on account of tax payable under this Act and on account of the income tax payable under the law of the non-agreeing province by an individual resident in Ontario on the last day of the taxation year to whom subsection 6 applies exceeds the tax payable by him under this Act for that year, section 18 of this Act applies in respect of such individual as though the excess were an overpayment under this Act. 1961-62, c. 61, s. 8, *part*.

Idem

(8) Where a collection agreement is entered into and the Government of Canada has agreed in respect of a taxation year to carry out the direction of Ontario and to make an adjusting payment on behalf of Ontario, the adjusting payment,

Adjusting  
payment to  
non-  
agreeing  
province  
under  
collection  
agreement

(a) shall be made out of any moneys that have been collected on account of tax under this Act for any taxation year; and

(b) shall be the amount calculated by the Minister to be the amount required to be paid under section 4,

and the payment thereof discharges any obligations the Government of Canada may have with respect to the payment to Ontario of any amount deducted or withheld under section 10 to which subsection 5 applies. 1962-63, c. 61, s. 7 (4).

#### RECIPROCAL ENFORCEMENT OF JUDGMENTS

**53.**—(1) A judgment of a superior court of an agreeing province under that province's income tax statute, including any certificate registered in such superior court in a manner similar to that provided in subsection 2 of section 29, may be enforced in the manner provided in *The Reciprocal Enforcement of Judgments Act*.

Enforcement  
of judgments

R.S.O. 1970,  
c. 402

(2) For the purposes of subsection 1, where a judgment of a superior court of an agreeing province is sought to be registered under *The Reciprocal Enforcement of Judgments Act*, such judgment shall be registered, notwithstanding that it is established that one or more of the provisions of section 3 of that Act apply.

Idem

(3) For the purposes of subsection 1, the Lieutenant Governor in Council may make regulations to enable the enforcement of judgments in respect of taxes in agreeing provinces to be enforced in Ontario. 1961-62, c. 60, s. 50.

Idem





## CHAPTER 218

### The Indian Welfare Services Act

**1.** In this Act,

- (a) "Indian" means a person who is registered as an Indian or entitled to be registered as an Indian under the *Indian Act* (Canada);
- (b) "Minister" means the Minister of Social and Family Services. R.S.O. 1960, c. 183, s. 1, *amended*.

Interpre-  
tation

R.S.C. 1952,  
c. 149

**2.** Every Indian resident in Ontario is entitled to the benefits of *The Blind Person's Allowances Act*, *The Disabled Persons' Allowances Act* and *The Family Benefits Act* to the same extent as any other person. R.S.O. 1960, c. 183, s. 2; 1962-63, c. 63, s. 1; 1966, c. 54, ss. 14, 16.

Indians  
eligible  
for welfare  
benefits  
R.S.O. 1960,  
cc. 35, 107  
R.S.O. 1970,  
c. 157

**3.** The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada, or an agency thereof,

Canada-  
Ontario  
agreements  
authorized

- (a) to provide compensation to any children's aid society that extends its facilities and services to Indians;
- (b) to provide compensation to any authority operating a home for the aged that provides accommodation and care for Indians;
- (c) respecting the payment of the cost of providing general welfare assistance for Indians;
- (d) respecting the payment of the cost of providing rehabilitation services for Indians; and
- (e) respecting the provision and payment of such other services as will promote the well-being of Indians. R.S.O. 1960, c. 183, s. 4.

**4.** The Lieutenant Governor in Council may appoint an advisory committee composed of such number of persons as are considered appropriate to advise the Minister on all matters under this Act and to make recommendations to him from time to time respecting any other matter that may encourage Indians in the development of their independence and promote their integration with the rest of the community. R.S.O. 1960, c. 183, s. 5.

Advisory  
committee



## CHAPTER 219

**The Industrial and Mining Lands  
Compensation Act**

**1.** It is lawful for an owner or operator of a mine, factory, industry or works, or a person contemplating acquiring or operating a mine, factory, industry or works, to make an agreement with the owner or lessee of any land for payment to the owner or lessee of the land of compensation for any damage or injury resulting or likely to result to the land or to its use and enjoyment from the operation of the mine, factory, industry or works in connection therewith. R.S.O. 1960, c. 184, s. 1.

Agreement  
for com-  
pensation

**2.** The agreement, if so expressed therein, binds and enures to the benefit of the heirs, executors, administrators and assigns, or the successors and assigns of the parties thereto, and may relate not only to a mine, factory, industry or works then in operation, but may also relate to a mine, factory, industry or works that may thereafter be established by the party paying the compensation, within a specified area, even though the land upon which the mine, factory, industry or works is thereafter operated is not at the time owned or leased by the party making the compensation. R.S.O. 1960, c. 184, s. 2.

Effect and  
extent of  
operation of  
agreement

**3.** Where the land in respect of which the agreement is made is not under *The Land Titles Act*, the agreement shall be registered, and where the land is under *The Land Titles Act*, a notice of the agreement shall be registered in the register of the title of the parcel of land on which the burden is imposed with a note referring to this Act, and any subsequent agreement cancelling an agreement so registered or in respect of which a notice is registered shall in like manner be registered or the notice deleted, as the case may be. R.S.O. 1960, c. 184, s. 3.

Registra-  
tion of  
agreement  
R.S.O. 1970,  
c. 234

**4.** The payment of compensation under the agreement affords a complete answer to any action that may be brought for damages or for an injunction in respect of any matter for which compensation has been made. R.S.O. 1960, c. 184, s. 4.

Payment of  
compensa-  
tion to  
be an  
answer to  
action

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## CHAPTER 220

## The Industrial Safety Act

## 1. In this Act,

Interpre-  
tation

- (a) “architect” means a person registered as a member of the Ontario Association of Architects or a person who is licensed to practise as an architect under *The Architects Act*; R.S.O. 1970,  
c. 27
- (b) “child” means a person under the age of fifteen years;
- (c) “Crown” includes a board, commission or agency of the Crown in right of Ontario and The Hydro-Electric Power Commission of Ontario;
- (d) “employer” means a person who in his own behalf, or as the manager, superintendent or agent, has charge of an industrial establishment, and includes the Crown and a person who is self-employed, and, in the case of an office building, includes the superintendent, manager or caretaker thereof;
- (e) “engineer of the Department” means a professional engineer, as defined in *The Professional Engineers Act*, R.S.O. 1970,  
c. 366 appointed to enforce this Act;
- (f) “factory” means a premises or place, including any land appertaining thereto, other than a premises or place where homework is done,
  - (i) where any manufacturing process or assembling in connection with the manufacturing of any goods or products is carried on,
  - (ii) where any form of thermal, hydraulic, electrical, aero-dynamic, kinetic, chemical, nuclear, solar or other form of energy is used to work any machinery or device, or where any form of such energy is modified in any manner in preparing, inspecting, manufacturing, finishing, repairing, warehousing, cleaning or adapting for hire or sale any substance, article or thing, or
  - (iii) wherein the employer of the persons working there has the right of access and control, and wherein any manual labour is exercised by way of trade or for purposes of gain in or incidental to the making of any goods, substance, article or thing or any part thereof, or the altering, demolishing, repairing,

maintaining, ornamenting, finishing, storing, cleaning, washing or adapting for sale of any goods, substance, article or thing, and includes a plant used for the maintenance of aircraft, locomotives or vehicles used for transport purposes,

and any other building, premises, shop, workshop, structure, room or place, including any land appertaining thereto, designated by the Lieutenant Governor in Council as a factory under section 3;

- (g) “homework” means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof by a person for wages in premises occupied primarily as living accommodation, and “homeworker” has a corresponding meaning;
- (h) “industrial establishment” means a factory, shop, office or office building;
- (i) “inspector” means an inspector appointed for the purposes of this Act, and includes the chief inspector;
- (j) “Minister” means the Minister of Labour;
- (k) “office” includes a building, including any land appertaining thereto, or that part of a building occupied and under the control of a separate employer and used for office purposes, and any other building, including any land appertaining thereto, or part thereof designated by the Lieutenant Governor in Council as an office under section 3;
- (l) “office building” means a building, including any land appertaining thereto, used or occupied for office purposes and not as a shop or factory, and includes a part of such a building when so used or occupied, and any other building, including any land appertaining thereto, or part thereof designated by the Lieutenant Governor in Council as an office building under section 3;
- (m) “owner” means the person for the time being entitled in his own right or as a trustee, mortgagee in possession, guardian, committee, agent or otherwise to receive the rents and profits of any premises used as an industrial establishment so far as such rents and profits are not payable solely in respect of the use or occupancy of land apart from any buildings or other improvements erected or situate thereon, and includes the Crown;
- (n) “parent” means a parent or the guardian of a child, or the person having the legal custody of, control over, or direct benefit from the wages of, a child;

- (o) "professional engineer" means a person who is a member of the Association of Professional Engineers of the Province of Ontario or who is licensed to practise as a professional engineer under *The Professional Engineers Act*; R.S.O. 1970,  
c. 366
- (p) "regulations" means the regulations made under this Act;
- (q) "safety" means freedom from injury to the body or freedom from damage to health;
- (r) "shop" means a building or a part of a building, booth, stall or place where goods are handled or exposed or offered for sale, or any building or part of a building, booth, stall or place where services are offered for sale or where goods are manufactured and that is not a factory or a premises or place where homework is done, and includes a restaurant, bowling alley, pool room and billiard parlour and any other building, booth, stall or place designated by the Lieutenant Governor in Council as a shop under section 3, and in all cases includes any land appertaining thereto;
- (s) "wages" means wages within the meaning of *The Wages Act*. 1964, c. 45, s. 1; 1968, c. 56, s. 1; 1970, c. 28, s. 1. R.S.O. 1970,  
c. 486

**2.** The Crown, or a municipality as defined in *The Department of Municipal Affairs Act*, using and occupying an office building shall be deemed to be the owner thereof for the purposes of this Act. 1964, c. 45, s. 2. Crown and municipalities deemed owners  
R.S.O. 1970,  
c. 118

**3.** The Lieutenant Governor in Council may designate any class of premises, buildings, shops, workshops, structures, rooms or places as factories, shops, offices or office buildings, as the case may be, to which this Act applies. 1964, c. 45, s. 3. Designation of factories, shops, offices or office buildings

**4.** Every place where a laundry is operated in conjunction with, Places deemed factories

- (a) a public hospital under *The Public Hospitals Act*, an institution designated by the regulations under *The Mental Hospitals Act*, a sanatorium established under *The Sanatoria for Consumptives Act*, a sanitarium licensed under *The Private Sanitaria Act*, or a psychiatric facility as defined in *The Mental Health Act*; R.S.O. 1970,  
cc. 378, 270,  
422, 363, 269
- (b) a private hospital licensed under *The Private Hospitals Act*; R.S.O. 1970,  
c. 361
- (c) a hotel within the meaning of *The Hotel Registration of Guests Act* or a motel; or R.S.O. 1970,  
c. 212
- (d) an institution for religious, charitable or educational purposes,



shall, except for the purposes of section 16, be deemed to be a factory to which this Act applies. 1968, c. 56, s. 2, *amended*.

When Act  
does not  
apply  
R.S.O. 1970,  
c. 80

**5.** This Act does not apply to,

- (a) a construction hoist within the meaning of *The Construction Hoists Act*;
- (b) a mine and machinery within the meaning of *The Mining Act* and including office and service buildings located at a mine;
- (c) loggers within the meaning of *The Loggers' Safety Act*;
- (d) a well or work within the meaning of *The Energy Act*;
- (e) the raising and care of fowl or live stock, the cultivation of plants, trees, flowers, fruits and vegetables, and farming operations; and
- (f) the performing of custom laundry work for a regular family trade by a person in his dwelling. 1964, c. 45, s. 5; 1968, c. 56, s. 3.

R.S.O. 1970,  
c. 274

R.S.O. 1970,  
c. 257

R.S.O. 1970,  
c. 148

Separate  
industrial  
establish-  
ments

**6.** Such part of an industrial establishment as the chief inspector approves in writing shall be deemed to be a separate industrial establishment for the purposes of this Act. 1964, c. 45, s. 6.

Appoint-  
ment of  
inspectors

**7.—(1)** For the purpose of carrying out this Act, such inspectors as are considered necessary to enforce this Act may be appointed, and one of them may be designated as the chief inspector who shall have the general supervision and direction of the other inspectors for the purpose of enforcing this Act.

Certificate  
of appoint-  
ment

(2) Every inspector shall be furnished with a certificate of his appointment under the hand and seal of the Minister, and, on applying for admission to any premises, shall, upon demand, produce his certificate. 1964, c. 45, s. 7.

Powers of  
inspector

**8.—(1)** An inspector may, for the purposes of this Act,

- (a) subject to subsection 3, enter in or upon, take up or use any property, real or personal, at any time without warrant;
- (b) require the production of any licence, permit or registration certificate, notice, document or record required by this Act or the regulations and examine and copy the same;
- (c) alone or in conjunction with such other person or persons possessing special or expert technical knowledge or skill as the Minister designates, make such examinations, tests, inquiries or, subject to subsection 2, take such samples as are necessary to ascertain whether this Act and the regulations are being complied with;

- (d) take with him a constable into an industrial establishment in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty, and, whenever the inspector requires a constable authorized to act in the locality to accompany him, it is the duty of the chief of police and every member of the police force in the locality to render him such assistance in carrying out his duties under this Act as he requires, and to put down by force if necessary any resistance, obstruction or hindrance;
- (e) examine either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, any person whom he finds in an industrial establishment or whom he has reasonable cause to believe to be or to have been within the two preceding months employed in an industrial establishment, and require such person to be so examined and to sign a statutory declaration of the truth of the matters respecting which he is so examined;
- (f) take with him into any premises a legally qualified medical practitioner, medical officer of health, sanitary inspector or any officer of the Department of Health;
- (g) exercise such other powers and do such other things as are necessary for the carrying out of this Act and the regulations.

(2) Where an inspector takes a sample under clause c of subsection 1, the owner, employer or person in charge of the place from which the sample is taken may, at the time the sample is taken and upon providing the necessary facilities, require the inspector to divide the sample into two parts and to deliver one part to such owner, employer or person. Samples

(3) An inspector shall not enter any room or place actually used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*. Entry to dwellings  
R.S.O. 1970,  
c. 450

(4) For the purpose of an investigation, inquiry or examination made by him under this Act, the chief inspector has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. 1964, c. 45, s. 8. Powers on investigation  
R.S.O. 1970,  
c. 379

**9.**—(1) No person shall obstruct or attempt to obstruct an inspector in the exercise of a power or the performance of a duty under this Act. Obstruction of inspector

(2) The owner and employer and their agents and servants shall furnish all means in their power required by an inspector for entry, inspection, examination, testing and inquiry in the exercise of his powers and duties. 1964, c. 45, s. 9. Co-operation by owner and employer

Directions  
by inspector  
where non-  
compliance  
with Act or  
regulations

**10.**—(1) An inspector may give directions orally or in writing to any person for the carrying out of any matter or thing regulated, controlled or required by this Act or the regulations and may require that his directions be carried out within such time as he specifies.

In writing

(2) If a person to whom an inspector gives oral directions under subsection 1 requests that the directions be put in writing, the inspector shall put the directions in writing.

Appeal from  
direction

(3) Any owner or employer affected by a direction of an inspector under subsection 1 may appeal therefrom by forthwith giving notice to the chief inspector orally or in writing.

Oral notice  
of appeal

(4) Oral notice of appeal may be given by telephone and shall be confirmed in writing.

Disposal of  
appeal

(5) The chief inspector shall vary, rescind or confirm the direction after giving the owner or employer an opportunity to be heard. 1964, c. 45, s. 10.

Directions  
by inspector  
where safety  
endangered

**11.**—(1) Where an inspector considers that any place, matter or thing, or any part or parts thereof, in an industrial establishment is a source of danger to the safety of persons employed therein or having access thereto, he,

(a) shall give such directions in writing to the employer or owner as he considers necessary, directing him immediately or within such period of time as the inspector specifies,

(i) to take measures for guarding the source of danger, or

(ii) to protect the safety of any person against dangers therefrom; and

(b) may direct that any place, matter or thing shall not be used until his directions are complied with.

Affixing  
notice  
prohibiting  
use

(2) Where an inspector gives a direction under clause *b* of subsection 1, he may affix to the place, matter or thing or any part thereof a notice in the prescribed form, and no person, except an inspector, shall remove the notice unless authorized by an inspector. 1964, c. 45, s. 11.

Power of  
inspector  
re approvals

**12.** Where this Act or the regulations require the approval of an inspector, the approval may be given upon such terms and conditions as the inspector considers necessary, and the approval may be withdrawn for a breach of any condition or upon a change in relevant circumstances. 1964, c. 45, s. 12.

Inspector's  
evidence in  
civil suits

**13.**—(1) No inspector shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his duties under this Act except with the written permission of the Minister.

(2) No person who is admitted into any industrial establishment in pursuance of the powers conferred by section 8 shall disclose to any person any information obtained by him therein with regard to any manufacturing process or trade secret except for the purposes of this Act or as required by law. Information confidential

(3) No person, except for the purposes of this Act or for the purposes of a prosecution, shall publish or disclose the results of any analysis, examination, testing, inquiry or sampling made or taken under this Act. Information not to be published

(4) No person to whom information is communicated in confidence under section 8, Information not to be disclosed

(a) shall divulge the name of the informant to any person except for the purposes of this Act;

(b) is competent or compellable to divulge the name of the informant before any court or other tribunal.

(5) No inspector is personally liable for anything done by him under the authority of this Act or the regulations. 1964, c. 45, s. 13. Inspector not liable

**14.**—(1) An inspector shall post up in an industrial establishment, in such conspicuous positions as he determines, Posting of notices

(a) a notice of the name and address of the inspector; and

(b) such notices of the provisions of this Act and the regulations as the inspector considers necessary to enable the persons therein to become acquainted with their rights, liabilities and duties under this Act.

(2) Every employer shall maintain in position and without change or defacement any notice or document posted under this Act or the regulations until otherwise directed by an inspector, and no person shall remove, change or deface any such notice or document. 1964, c. 45, s. 14. Removal of notices

**15.**—(1) The sending or service of any notice, order, direction, summons or document to or upon any person for the purposes of this Act or the regulations shall be made, Service

(a) by serving it personally on such person;

(b) by leaving it at the place of his last known or usual residence or, alternatively, in the case of an employer, by leaving it at the industrial establishment for which he is the employer; or

(c) by mailing it by prepaid first-class mail addressed to the person at his last known or usual residence or, alternatively, in the case of an employer, addressed to the industrial establishment for which he is the employer without naming him in the address.



and the leaving or mailing shall be deemed conclusively to be good and sufficient sending or service on the date of the leaving or mailing.

Proof of  
mailing

(2) The service or sending of a notice, order, direction, summons or document under clause *c* of subsection 1 may be proved by affidavit of the the person who mailed the notice, order, direction, summons or document, and the affidavit shall state,

- (a) the place and date of mailing;
- (b) the name of the person and the address to which the notice, order, direction, summons or document was sent; and
- (c) that to the best of the knowledge and belief of the deponent the address to which the notice, order, direction, summons or document was sent is the last known or usual address,
  - (i) of the person to whom it was sent, or
  - (ii) where the person to whom it was sent is an employer, of the industrial establishment for which he is the employer. 1964, c. 45, s. 15.

Approval of  
drawings  
and speci-  
fications

**16.**—(1) No person shall commence to construct or reconstruct a building or add to or alter an existing building,

- (a) that is to be or is used as a factory;
- (b) that is to be or is used as a shop or office building and is to be or is more than two storeys in height; or
- (c) that is to be or is used as a shop or office building and is to have or has more than 5,000 square feet of gross horizontal area in any storey enclosed within,
  - (i) exterior walls, or
  - (ii) any combination of exterior walls and interior fire-resistive walls without any opening to another building,

or install or alter in an industrial establishment any equipment, machinery or device designated by the regulations until the drawings and specifications thereof have been approved by an engineer of the Department. 1964, c. 45, s. 16 (1); 1968, c. 56, s. 4 (1).

Application  
for approval

(2) An application for approval shall be in the form prescribed by the regulations, and shall,

- (a) be accompanied by the drawings and specifications in duplicate of the proposed construction, reconstruction, addition, installation or alteration and the estimated cost thereof; and
- (b) be supplemented by such additional information as an engineer of the Department requires. 1964, c. 45, s. 16 (2).

(3) Drawings and specifications of a building that is to be or is more than two storeys in height shall bear the signature and seal of a professional engineer or an architect. 1970, c. 28, s. 2.

Drawings and specifications to be signed and sealed

(4) An engineer of the Department shall examine the drawings and specifications and, if they comply with this Act and the regulations, he shall certify his approval thereon and return one copy to the applicant, and the construction, reconstruction, addition, installation or alteration may be proceeded with only in accordance with the drawings and specifications as approved. 1964, c. 45, s. 16 (3); 1968, c. 56, s. 4 (2).

Approval of specification

(5) The owner of the building or of the land on which the building is being constructed or a person designated by him shall keep one copy of the approved drawings and specifications at the site of the construction, reconstruction, addition, installation or alteration until the completion thereof, and such drawings and specifications shall be produced upon demand to an inspector or to a building inspector or construction safety inspector appointed by a municipality or by the Lieutenant Governor in Council. 1968, c. 56, s. 4 (3).

Copy of drawings, etc., on site

**17.** Every employer, upon commencing to occupy a factory, shall send to the chief inspector forthwith a notice in writing of the name of the firm under which the business of the factory is to be carried on, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work and the expected number of employees. 1964, c. 45, s. 17 (1).

Notice of occupation of factory

**18.** The Minister may suspend or revoke any approval, permit or registration granted under this Act. 1964, c. 45, s. 18.

Revocation of approvals, permits or registration

**19.—(1)** Every employer shall keep his industrial establishment so that the safety of persons in the establishment is not likely to be endangered.

Safety

(2) Without restricting the generality of subsection 1, where, in an industrial establishment,

When safety deemed endangered

(a) the regulations made under *The Department of Labour Act* or under *The Power Commission Act* are contravened;

R.S.O. 1970, cc. 117, 354

(b) a boiler or pressure vessel is constructed, installed, maintained or operated in a manner contrary to *The Boilers and Pressure Vessels Act* and the regulations thereunder;

R.S.O. 1970, c. 47

(c) an elevator, dumb-waiter, escalator, manlift or incline lift is constructed, installed, maintained or operated in a manner contrary to *The Elevators and Lifts Act* and the regulations thereunder;

R.S.O. 1970, c. 143

(d) *The Operating Engineers Act* and the regulations thereunder are contravened; or

R.S.O. 1970, c. 333

R.S.O. 1970,  
c. 81

- (e) maintenance work for a building, structure or other object is being carried on by an employee who is working in a manner and under circumstances contrary to the provisions of the regulations made under *The Construction Safety Act*,

such industrial establishment shall be deemed to be kept so that the safety of persons therein is endangered.

Safety  
precautions

(3) Every employer shall take such precautions as are reasonable in the circumstances to ensure the safety of every person in the industrial establishment. 1964, c. 45, s. 19.

Duty of  
lessee

**20.** Every person in possession of an industrial establishment or part thereof, other than the owner, is jointly responsible with the owner for any thing that the owner is required to do under this Act or the regulations if such thing is the obligation of the person in possession to do under the agreement for possession. 1964, c. 45, s. 20.

Persons  
deemed  
employees

**21.—(1)** A person who has charge and control of an industrial establishment shall be deemed to be the employer of every person,

- (a) working therein, notwithstanding that the work is performed under a contract with another person; or
- (b) found in a factory except at meal times or while the machinery of the factory is stopped or except when present for the purpose of bringing food to persons employed in the factory,

other than a person working in the industrial establishment or found in the factory while employed on a project as defined in *The Construction Safety Act*.

Person  
deemed  
employer

(2) Notwithstanding subsection 1, any person who under a contract with an employer of an industrial establishment supplies the employer with a machine or device and a person or persons to work in connection with the machine or device shall, for the purposes of this Act, be deemed to be the employer of the person or persons supplied.

Exemption

(3) Playgrounds, recreation areas and public waiting rooms of a factory in which no machinery is used or manufacturing process carried on shall be deemed not to be part of the factory for the purposes of clause *b* of subsection 1. 1964, c. 45, s. 21.

Unsafe  
equipment

**22.—(1)** No person who has reasonable cause to believe that any machine, device or thing in or about an industrial establishment is unsafe or in contravention of this Act or the regulations shall use or operate or cause or permit it to be used or operated.

Unsafe  
operation

(2) No person shall use or operate any machine, device or thing in or about an industrial establishment in an unsafe manner or in a

manner that does not comply with the regulations. 1964, c. 45, s. 22.

**23.** No person on his own behalf or for any other person shall make any agreement for sale or sell, lease or transfer possession of any machine, device or thing for use in or about an industrial establishment where the machine, device or thing is unsafe or does not comply with the regulations. 1964, c. 45, s. 23.

Sale of  
unsafe  
equipment

**24.—**(1) Subject to subsection 2, no person shall employ a child in an industrial establishment.

Employment  
of children

(2) A child who is fourteen years of age may be employed in a shop, office or office building under such conditions as are prescribed by the regulations.

Employment  
of children  
14 years of  
age

(3) Where a parent consents to the employment of his child in an industrial establishment contrary to subsection 1 or 2, the parent shall be deemed to have contravened this Act.

Parental  
consent

(4) The employment of a child in an industrial establishment contrary to subsection 1 or 2 is *prima facie* proof of the consent of his parent thereto. 1964, c. 45, s. 24.

Proof

**25.** No person shall employ in an industrial establishment during school hours a person who is required under *The Schools Administration Act* to attend school. 1970, c. 28, s. 3.

Employment  
of  
adolescents  
R.S.O. 1970,  
c. 424

**26.—**(1) The Lieutenant Governor in Council may make such regulations as in his opinion are advisable to ensure the safety and welfare of persons in or about industrial establishments. 1964, c. 45, s. 26 (1).

Regulations

(2) Without limiting the generality of subsection 1, the Lieutenant Governor in Council may make regulations,

Idem

1. prescribing forms and providing for their use;
2. providing for and prescribing fees;
3. requiring and prescribing the notices in one or more languages that shall be posted by employers;
4. prescribing the records that shall be kept by owners and employers;
5. respecting the duties and powers of inspectors or engineers of the Department;
6. designating equipment, machinery and devices for the purposes of section 16 and prescribing the nature of the drawings and specifications to be submitted under this Act and by whom such drawings and specifications shall be prepared or certified;



7. prohibiting employment or modifying or limiting the hours of employment of any person or class of persons in connection with any industrial establishment;
8. respecting the use of any material or process;
9. regulating or prohibiting the sale, installation or use of any machine, device or thing;
10. exempting any person or any class of persons from the application of or compliance with this Act or the regulations or of any of the provisions thereof;
11. exempting any manufacture, machinery, machine, process or thing or any class of them or any description of manual labour from the application of this Act or the regulations or of any of the provisions thereof;
12. requiring and regulating protective clothing and safety devices for persons employed or working in any manufacturing or industrial undertaking or process or who are exposed to any hazards;
13. respecting any poisonous, dangerous or harmful material, substance or thing;
14. prescribing the conditions under which the safety of persons is deemed to be endangered for the purpose of section 19;
15. prescribing the conditions under which a child who is fourteen years of age may be employed in a shop, office or office building;
16. respecting the weight that may be lifted, carried or moved by any person or class of persons employed in an industrial establishment or any class thereof;
17. respecting protection from fire in an industrial establishment;
18. respecting the provision and maintenance of any sanitary convenience or welfare provision in an industrial establishment;
19. respecting the employment of pregnant females in any factory or shop;
20. respecting safe atmospheric conditions to which any person or class of persons in an industrial establishment may be exposed in the course of any employment;
21. respecting medical examinations of persons employed in an industrial establishment and the reports to be made of such examinations;

22. respecting the reporting by physicians and others of cases of affection from dangerous or harmful substances or industrial poisoning;
23. requiring owners and employers to transmit to the chief inspector such returns and reports as are prescribed;
24. respecting the provision of suitable facilities for medical treatment in cases of accident or sickness, and for the supervision of the general health of employees during working hours;
25. requiring that any machine, device or thing used in an industrial establishment bears the seal of approval of an organization designated to test and approve the machine, device or thing;
26. requiring the approval of an inspector in respect of any method, matter or thing;
27. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1964, c. 45, s. 26 (2), *amended*.

(3) Any regulation may be general or particular in its application. 1964, c. 45, s. 26 (3). Application of regulation

**27.**—(1) The chief inspector may by originating notice apply to a judge of the Supreme Court for an order enjoining any person from continuing any act or default for which such person was convicted of an offence against this Act or the regulations. Injunction proceedings

(2) The judge in his discretion may make such order, and the order may be entered and enforced in the same manner as any other order or judgment of the Supreme Court. 1964, c. 45, s. 31. Idem

**28.** No person shall wilfully make a false statement or entry in a register, notice, certificate, plan, specification, document or other information required by this Act or the regulations to be submitted, kept, served or sent, and no person shall wilfully make or sign a false declaration under this Act, or knowingly make use of any such false statement, entry or declaration. 1964, c. 45, s. 32. False entries, etc.

**29.** Where in an information it is alleged that a person is a child or otherwise under a prescribed age, the onus is on the person charged to prove that such person is not a child or is otherwise over the age alleged. 1964, c. 45, s. 33. Onus of proof as to age

**30.** Where there is an act or default that constitutes an offence by an employer under this Act or the regulations and the act or default has in fact been committed or made by a person other than the employer, the offence shall be deemed to have been also committed by such other person. 1964, c. 45, s. 34. Offence by persons other than employer

Name of  
employer

**31.** It is sufficient in an information for an offence against this Act or the regulations to name the employer by stating the ostensible employer or the firm name by which the employer is usually known. 1964, c. 45, s. 35.

Continuing  
offences

**32.** Where the circumstances constituting an offence against this Act continue from day to day and,

- (a) an information has been laid in respect of the offence; or
- (b) the offence is one of employing two or more children contrary to this Act,

the offence shall be deemed to have been repeated on each day the circumstances continue. 1964, c. 45, s. 36.

General  
offence and  
penalty

**33.** Every person who contravenes or fails to comply with any of the provisions of this Act or the regulations, a direction of an inspector or a condition of an approval or permit is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than twelve months, or to both. 1964, c. 45, s. 37; 1968, c. 56, s. 6.

Limitation  
on prosecu-  
tion

**34.** No prosecution under this Act shall be instituted more than one year after the last act or default upon which the prosecution is based occurred. 1964, c. 45, s. 38.

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## CHAPTER 221

## The Industrial Standards Act

**1.** In this Act,Interpre-  
tation

- (a) “Director” means the Director of Labour Standards;
- (b) “employee” means a person who is in receipt of or entitled to wages;
- (c) “employer” includes a person who by himself or his agent or representative is directly or indirectly responsible for the payment of wages to a person who comes within the provisions of a schedule promulgated as hereinafter provided;
- (d) “industry” includes a business, calling, trade, undertaking and work of any nature whatsoever and any branch thereof and any combination thereof that the Minister designates;
- (e) “Minister” means the Minister of Labour or such member of the Executive Council as is for the time being charged with the administration of this Act;
- (f) “officer” means an industrial standards officer appointed under this Act;
- (g) “wages” includes any form of remuneration for labour performed and, without restricting the generality of the foregoing, includes payment at an hourly, daily, weekly or monthly rate or at a piece-work or unit-price rate on an incentive or production basis. R.S.O. 1960, c. 186, s. 1; 1964, c. 46, s. 1.

**2.** The Lieutenant Governor in Council may appoint one or more persons as industrial standards officers whose duty it is to assist in carrying out this Act and the regulations and schedules. R.S.O. 1960, c. 186, s. 2.

Appoint-  
ment of  
industrial  
standards  
officers

**3.** Every officer has such powers and duties as are prescribed by this Act and the regulations and has authority to conduct inquiries and investigations respecting all matters coming within the scope of this Act and of the regulations and, for such purposes, has all the powers, rights and privileges that may be conferred on a commissioner appointed under *The Public Inquiries Act*. R.S.O. 1960, c. 186, s. 3.

Powers and  
duties of  
officersR.S.O. 1970,  
c. 379



Director  
of Labour  
Standards  
and  
Adminis-  
trator of  
Industrial  
Standards

**4.** A Director of Labour Standards shall be appointed for the purposes of this Act, and the Minister may designate an officer of the Department of Labour as Administrator of Industrial Standards who may perform the duties and exercise the powers of the Director under his direction. 1964, c. 46, s. 2, *part*.

Designation  
of zones

**5.—(1)** The Minister may designate the whole of Ontario, or any part or parts thereof, as a zone or zones for an industry for the purposes of this Act and may enlarge, reduce or divide any designated zone.

Interprovin-  
cially com-  
petitive  
industries

(2) Notwithstanding subsection 1, a zone for an industry that is designated as an interprovincially competitive industry under clause *e* of section 7 shall be the whole of Ontario, and any schedule for the industry may provide for different wages and hours and days of labour for different areas in the zone. 1964, c. 46, s. 2, *part*.

Designation  
of industries

**6.** The Minister may designate an industry for the purposes of this Act and may amend any designation, and, where the designated industry is not enlarged by the amendment, any schedule applying to the industry, when the amendment was made, applies to the amended designation. 1964, c. 46, s. 2, *part*.

Powers of  
Director

**7.—(1)** The Director has jurisdiction and authority,

- (a) to administer and enforce this Act, the regulations and the schedules;
- (b) to hear appeals from the decisions of any advisory committee;
- (c) subject to subsection 2 and subject to the approval of the Lieutenant Governor in Council, and with the concurrence of the proper advisory committee, to amend any schedule, after giving notice of the terms of the proposed amendment by publication thereof at least once in each of two consecutive weeks in a newspaper having general circulation in the zone in which the schedule is in force;
- (d) to require any employer to pay to the Director the arrears of wages owing to an employee or employees according to any schedule and in his discretion to direct that the whole or a part of such wages be either forfeited to the Crown or paid to the employee or employees entitled thereto;
- (e) to determine and designate which industries are interprovincially competitive, and with respect to any such industry,
  - (i) may approve or withhold approval of a schedule with respect to the collection of revenue from

employers and employees in the industry and with respect to the exercise by the advisory committee of any powers in connection with the collection of such assessments and the disbursement of moneys collected, except that the assessments that may be approved shall not exceed one-half of one per cent of an employee's wages and one-half of one per cent of an employer's pay-roll,

- (ii) may require the advisory committee to furnish estimates of receipts and expenses annually, and to furnish quarterly reports, certified by an auditor approved by the Director, accounting for all money collected and disbursed. R.S.O. 1960, c. 186, s. 5; 1964, c. 46, s. 3 (1-4).

(2) Where a schedule applies to a zone that is the whole of Ontario, publication of the terms of the proposed amendment in at least five newspapers designated by the Minister is sufficient notice for the purposes of clause *c* of subsection 1. 1964, c. 46, s. 3 (5).

Publication of amendment to schedule applying to whole of Ontario

**8.**—(1) The Minister may, upon the petition of representatives of employers or employees in an industry in a designated zone or zones, authorize an officer to convene a conference of the employers and employees in the industry for the purpose of investigating and considering the conditions of labour and the practices prevailing in the industry and for negotiating with respect to any of the matters enumerated in subsection 1 of section 9, and, subject to subsection 3, notice of the conference shall be given by publication thereof at least once in each of two consecutive weeks in a newspaper having general circulation in the zone for which the conference is to be held. R.S.O. 1960, c. 186, s. 6; 1964, c. 46, s. 4 (1).

Officer may convene conference

(2) The conference may submit to the Minister, through the officer who convenes the conference, a schedule in accordance with subsection 1 of section 9.

Submission of schedule

(3) Where the zone referred to in subsection 1 is the whole of Ontario, notice of the conference shall be given by publication thereof at least once in each of two consecutive weeks in at least five newspapers as determined by the Minister. 1964, c. 46, s. 4 (2).

Notice of conference where zone is whole of Ontario

**9.**—(1) A schedule may,

Conference to report to Minister

- (a) establish the maximum number of hours comprising the regular working day and prescribe the hours of the day during which such hours of work are to be performed;
- (b) establish the maximum number of hours comprising the regular working week;

- (c) establish the minimum rates of wages for the regular working periods;
- (d) establish the particular days in the week for the performance of labour in the industry;
- (e) establish the rates of wages and the periods for, and the conditions governing, overtime work;
- (f) establish vacations with pay or payment in lieu thereof and payment for any day that may be designated as a holiday in the schedule;
- (g) classify the employees and employers and separately provide for each classification with respect to any of the matters that may be dealt with in the schedule;
- (h) define any term used in the schedule;
- (i) specify the particular operations that are included in the industry and prescribe the conditions under which the operations are included;
- (j) prohibit overtime work without a permit and authorize the advisory committee to issue the permits subject to the terms and conditions of the schedule;
- (k) fix the minimum charge that is to be paid, accepted or contracted for with respect to the labour content of any service, work, operation or art and, with the approval of the Director, fix the minimum charge that an employer or employee is to contract for or accept for any service, work, operation or art;
- (l) authorize the advisory committee to fix a minimum rate of wages lower than the rate fixed by the schedule for any classification of employees or for any individual who performs work included in more than one classification of employees, or whose work is only partly subject to the schedule, or who is handicapped;
- (m) subject to the approval of the Director and with respect only to an interprovincially competitive industry, assess employers only or employers and employees in any such industry to provide revenue for the enforcement of the schedule, and authorize the advisory committee generally to administer and enforce the schedule, and to collect the assessments, and out of the revenue collected to engage inspectors and other personnel and to make such expenditures as are necessary for such administration and enforcement. R.S.O. 1960, c. 186, s. 7 (1); 1964, c. 46, s. 5 (1-5).

When  
advisory  
committee  
fixes rate  
lower than  
schedule

(2) When the advisory committee fixes a minimum rate of wages lower than the rate fixed by the schedule, such lower rate shall be deemed to be the rate fixed by the schedule. R.S.O. 1960, c. 186, s. 7 (2).

**10.**—(1) The Minister may direct the officer who convenes a conference to conduct further investigations into the conditions of labour and the practices prevailing in the industry, and the officer may recommend variations in the schedule proposed by the conference.

Investigation of conditions and practices

(2) If, in the opinion of the Minister, the schedule submitted by the conference is agreed to by a proper and sufficient representation of employers and employees, the Minister may approve the schedule submitted by the conference with such variations recommended by the officer convening the conference as the Minister considers desirable.

Approval of schedule by Minister

(3) Upon the recommendation of the Minister, the Lieutenant Governor in Council may declare the schedule to be in force during pleasure and to be binding upon all employers and employees in a designated industry and zone. 1964, c. 46, s. 6.

Declaring schedule in force

**11.** Every employer affected by a schedule shall cause a copy of the schedule to be posted in a conspicuous place where his employees are engaged in their duties so that it may be readily seen and read by them and shall cause the schedule to be there maintained so long as it remains in force. R.S.O. 1960, c. 186, s. 9.

Posting of schedule

**12.** For the purposes of this Act every person who is in any way engaged in an industry shall, in so far as he personally performs work in the industry, be deemed an employee and, in so far as he employs another person or is the proprietor of a shop or business either alone or in partnership with another person be deemed an employer, and this Act and the regulations and schedules shall, *mutatis mutandis*, be read and construed accordingly, notwithstanding that he may thereby become both an employer and an employee or may become an employer for one purpose and an employee for another purpose, or that his status may be changed from time to time. R.S.O. 1960, c. 186, s. 10.

One man operators and partners within the scope of the Act

**13.**—(1) An employer to whom a schedule applies shall make and keep, or cause to be made and kept, for a period of at least twelve months after work is performed by an employee, a record of the name, address, wage rate, vacations with pay or payment in lieu of vacations, hours worked and actual earnings of the employee and such other information as the regulations may require.

Records to be kept by employers

(2) The employer shall,

Inspection of records

(a) produce the record for inspection by any person authorized by the Director, and shall for this purpose provide access to his premises for such person at all reasonable times and at any time his employees are engaged in their work; and



- (b) furnish such information from the record at such time and place as the Director may require.

Notice to  
furnish  
information

(3) No employer is required to furnish information under clause *b* of subsection 2 unless the Director sends a notice to the employer requiring him to furnish the information within the time specified in the notice, and the information furnished shall be verified by a statutory declaration made by the employer or, where the employer is a corporation, by an officer thereof.

Extracts  
from  
records

(4) Any person who inspects a record under subsection 2 may take extracts from or make copies of any entry in the record.

False or  
misleading  
information

(5) An employer shall not make, keep or furnish, or cause to be made, kept or furnished, false or misleading entries on any records that he is required to make, keep or furnish by this Act or the regulations and shall not supply or cause to be supplied false or misleading information to the Director or any person acting under his authority. 1964, c. 46, s. 7, *part*.

Admis-  
sibility of  
extracts  
furnished by  
employer

**14.** Any extract, copy or information furnished by an employer under section 13 is admissible in evidence as *prima facie* proof of the contents of the record and has the same force and effect as the original record would have if produced. 1964, c. 46, s. 7, *part*.

Admis-  
sibility of  
Director's  
certificate

**15.**—(1) A certificate of the Director certifying,

- (a) that a notice was sent in accordance with subsection 3 of section 13 is admissible in evidence as *prima facie* proof that the notice was sent to and received by the employer to whom it was addressed; or
- (b) that the information required under subsection 3 of section 13 has not been furnished is admissible in evidence as *prima facie* proof that the information required has not been furnished.

Idem

(2) A certificate signed or purporting to be signed by the Director is admissible in evidence as *prima facie* proof of the facts stated therein and of the authority of the Director to make the certificate without proof of appointment or signature. 1964, c. 46, s. 7, *part*.

Method of  
serving or  
sending

**16.** The sending of a notice or document to any person for the purposes of this Act or the regulations or any schedule shall be effected,

- (a) by serving it personally on such person;
- (b) by leaving it at the place of his last known or usual residence or, alternatively in the case of an employer, by leaving it at the office or business premises of the employer; or
- (c) by mailing it by prepaid first-class mail addressed to the person at his last known or usual residence or, alterna-

tively in the case of an employer, addressed to the office or business premises of the employer without naming him in the address,

and the leaving or mailing shall be deemed conclusively to be good and sufficient sending on the date of the leaving or mailing. 1964, c. 46, s. 7, *part*.

**17.** The Lieutenant Governor in Council may make such Regulations regulations as he considers necessary for carrying out this Act and for its efficient administration. R.S.O. 1960, c. 186, s. 12.

**18.**—(1) For every zone or group of zones to which a schedule applies, the Minister may establish an advisory committee of not more than five members, one of whom shall be designated as chairman, and the committee may hear complaints of employers and employees to whom such schedule applies and may generally assist in carrying out this Act and the regulations and have jurisdiction and authority to do anything that it is authorized to do by such schedule, notwithstanding that one or more members are employers or employees in the industry or zone to which the schedule applies, and shall be deemed to be a corporation for the purpose of collecting any money that it is authorized to collect or paying any money that it is authorized to pay. R.S.O. 1960, c. 186, s. 13 (1); 1964, c. 46, s. 8 (1)

(2) Three members of an advisory committee constitute a quorum whether or not a vacancy exists in the membership of the committee.

(3) The expenses of the members of an advisory committee properly incurred in carrying out their duties may be paid out of the moneys appropriated therefor by the Legislature.

(4) Where a schedule authorizes an advisory committee to issue permits for overtime work, the permits may be issued by such person or persons as the committee designates.

(5) An employer or employee aggrieved by a decision of an advisory committee has a right of appeal from the decision to the Director, and the Director has jurisdiction to hear and determine the appeal, and his decision is final. 1964, c. 46, s. 8 (2).

**19.**—(1) Every employer who contravenes a schedule that is applicable to him or who permits or condones work in contravention thereof is guilty of an offence and on summary conviction is liable, for a first offence, to a fine of not less than \$50 and not more than \$200 and, in default of payment, to imprisonment for a term of not more than two months, and, for any subsequent offence, to a fine of not less than \$100 and not more than \$1,000 and, in default of payment, to imprisonment for a term of not more than six months, and, where the conviction is for failing to pay the

minimum rate of wages prescribed by the schedule, shall be ordered to pay to the Director, as an additional penalty, the full amount of the wages found to be unpaid to any employee under the schedule, and the Director, in his discretion, may direct that the whole or a part of such wages be either forfeited to the Crown or paid to the employee or employees entitled thereto. 1964, c. 46, s. 9, *part*.

Enforce-  
ment of  
order to  
pay wages

(2) A copy of an order for payment of wages made under subsection 1 that has become final, certified as a true copy by the provincial judge who made it, may be filed by the Director with the clerk of the county or district court of a county or district in which the employer carries on business or, where the amount ordered to be paid does not exceed \$400, with the clerk of a like small claims court, and, when so filed and upon payment of the fees of the clerk of the court, such order becomes an order of the court in which it is filed and may be enforced as a judgment of the court against the employer for the amount mentioned in the order and the fees so paid. 1964, c. 46, s. 9, *part, amended*.

Offence

(3) Every employee who contravenes a provision of a schedule is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100 and, in default of payment, to imprisonment for a term of not more than ten days.

Consent to  
prosecution

(4) No prosecution shall be instituted under this Act without the consent of the Director, and the production of a consent purporting to be signed by the Director is admissible in evidence as *prima facie* proof of his consent. 1964, c. 46, s. 9, *part*.

Offence

**20.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, where no penalty has been specifically provided, is liable, for a first offence, to a fine of not less than \$50 and not more than \$200 and, in default of payment, to imprisonment for a term of not more than thirty days, and, for any subsequent offence, to a fine of not less than \$100 and not more than \$1,000 and, in default of payment, to imprisonment for a term of not more than six months. 1964, c. 46, s. 9, *part*.

Intimida-  
tion

**21.—(1)** No employer may discharge or threaten to discharge or in any way discriminate against an employee because the employee,

- (a) has testified or is about to testify in any proceeding or investigation had or taken under this Act; or
- (b) has given any information to the Director or to any person authorized by the Director regarding earnings, hours, days or conditions of labour of employees in an industry. 1964, c. 46, s. 9, *part*.

(2) In addition to the penalty prescribed for a breach of subsection 1, the provincial judge, in his discretion, may order the employer to reinstate the employee with or without the payment of compensation by the employer for loss of earnings and other employment benefits. Reinstatement

(3) Where an order is made under subsection 2, the employee in respect of whom the order is made may file a copy of the order, certified by the provincial judge, in the office of the Registrar of the Supreme Court, whereupon the order shall be entered in the same way as a judgment of the Supreme Court and is enforceable as such, but the part of the order requiring payment of compensation is not enforceable until the order has become final. 1964, c. 46, s. 9, *part, amended*. Enforcement of order for reinstatement

(4) Where an order made under subsection 2 requires an employer to reinstate an employee in employment and the employer appeals from the order, the appeal shall not operate as a stay of execution of the part of the order requiring the reinstatement. 1964, c. 46, s. 9, *part*. Appeal not to operate as stay

**22.**—(1) Subject to subsection 2, *The Employment Standards Act*, *The Industrial Safety Act*, sections 355, 356 and 357 of *The Municipal Act* and *The Woodmen's Employment Act* shall be read and construed as being subject to this Act and any schedule or regulation made thereunder. Application of other Acts  
R.S.O. 1970,  
cc. 147, 220,  
284, 503

(2) Where a schedule under this Act prescribes rates of wages, vacations with pay or hours of labour that are different from those prescribed by or under any Act referred to in subsection 1, the greater rate of wages and vacations with pay and the lesser hours of labour shall prevail. Rates of wages

(3) The rates of wages for apprentices to whom *The Apprenticeship and Tradesmen's Qualification Act* applies shall be the rates provided under that Act and the regulations thereunder. 1964, c. 46, s. 9, *part*. Apprentices  
R.S.O. 1970,  
c. 24

**23.** No schedule shall apply to the mining industry or to the agricultural industry. 1964, c. 46, s. 9, *part*. Where schedules not to apply

**24.**—(1) In this section, "retail gasoline service industry" means the business of operating retail gasoline service stations, gasoline pumps or outlets where gasoline is offered for sale at retail, including washing, waxing, oiling or lubricating automotive vehicles, repairing or changing tires and other services and undertakings incidental thereto, but does not include a gasoline outlet on the premises of an employer and used in the fueling of automotive vehicles owned or operated by the employer. Interpretation



Exception  
as to retail  
gasoline  
service  
industry

(2) Notwithstanding anything in this Act, no schedule applicable to the retail gasoline service industry shall prescribe the hours of the day during which the hours of work may be performed or shall establish the particular days of the week for the performance of labour in the industry. R.S.O. 1960, c. 186, s. 18.

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## CHAPTER 222

### The Infants Act

**1.—**(1) The court, upon the application of the father or the mother of an infant, who may apply without a next friend, may make such order as the court sees fit regarding the custody of the infant and the right of access thereto of either parent, having regard to the welfare of the infant, and to the conduct of the parents, and to the wishes as well of the mother as of the father, and may alter, vary or discharge the order on the application of either parent, or, after the death of either parent, of any guardian appointed under this Act, and in every case may make such order respecting the costs of the mother and the liability of the father for such costs, or otherwise, as the court considers just. R.S.O. 1960, c. 187, s. 1 (1); 1961-62, c. 62, s. 1 (1).

Orders as to custody of and right of access to infant, at the instance of father or mother

(2) In subsection 1, “court” means the Supreme Court or the surrogate court of the county or district in which the infant resides at the time the proceedings under that subsection are commenced. 1961-62, c. 62, s. 1 (2).

Meaning of “court”

(3) Where,

- (a) custody proceedings have been commenced in a surrogate court under subsection 1; and
- (b) it is made to appear to a judge of the Supreme Court that proceedings in respect of custody of children, alimony, dissolution of marriage or annulment of marriage are pending between the father and mother in the Supreme Court,

Removal of proceedings to Supreme Court

the judge of the Supreme Court may order that the custody proceedings in the surrogate court be removed to the Supreme Court, and may make such order as to the hearing of the application for custody and as to costs as he considers proper.

(4) The court may also make an order for the maintenance of the infant by payment by the father, or out of any estate to which the infant is entitled, of such sum from time to time as, according to the pecuniary circumstances of the father or the value of the estate, the court considers reasonable.

Order as to maintenance

(5) Where it is made to appear to the judge of the surrogate court of the county or district in which the infant resides in whose favour an order has been made under subsection 3, that default has been made in payment of any sum of money so ordered to be paid, the judge of the surrogate court,

Enforcement of order

- (a) may from time to time summon the person in default to explain the default; and
- (b) may, where service of the summons has been proved, and the person in default does not appear or sufficient reason for his absence is not given, or where it appears that the summons cannot be served, issue an order for his arrest; and
- (c) may, when an order has been issued, or where the person in default fails to satisfy the judge that the default is due to inability to pay, order and adjudge the person to be imprisoned for a term not exceeding three months unless the sums of money payable under the order are sooner paid.

Investigation by Official Guardian

R.S.O. 1970, c. 265

(6) On an application under this section, the court may require the Official Guardian to cause an investigation to be made and to report to the court upon all matters relating to the custody, maintenance and education of the child, in which case section 6 of *The Matrimonial Causes Act* applies *mutatis mutandis* and the court may make an order for the payment of the Official Guardian's costs. R.S.O. 1960, c. 187, s. 1 (2-5).

Father and mother to be joint guardians

**2.**—(1) Unless otherwise ordered by the court and subject to this Act, the father and mother of an infant are joint guardians and are equally entitled to the custody, control and education of the infant.

Agreement as to custody, etc.

(2) Where the parents are not living together or where the parents are divorced or judicially separated, they may enter into a written agreement as to which parent shall have the custody, control and education of the infant, and, in the event of the parents failing to agree, either parent may apply to the court for its decision. R.S.O. 1960, c. 187, s. 2.

Rules of equity

**3.** In questions relating to the custody and education of infants, the rules of equity prevail. R.S.O. 1960, c. 187, s. 3.

Where sale or lease of infant's estate may be authorized

**4.**—(1) Where an infant is seised, possessed of or entitled to any real estate in fee or for a term of years or otherwise and the Supreme Court is of opinion that a sale, mortgage, lease or other disposition of the real estate or of a part thereof, or of any timber, not being ornamental, growing thereon, is necessary or proper for the maintenance or education of the infant, or that for any cause his interest requires or will be substantially promoted by the disposition, the court may order the sale, mortgage, or the letting for a term of years, or other disposition of the real estate or a part thereof, to be made under the direction of the court or of one of its officers, or by the guardian of the infant, or by a person appointed for the purpose, in such manner and with such restrictions as are considered expedient, and may order the infant to convey the estate.

(2) No sale, mortgage, lease or other disposition shall be made Exception contrary to a will or conveyance by which the estate has been devised or granted to the infant or for his use.

(3) The court, if it is of opinion that such course is for the benefit of the infant or that his interest requires it or will be substantially promoted thereby, may from time to time authorize the exchange of any lands held in fee or for a term of years or otherwise by the infant, and that are unproductive, for lands that are productive, but no such exchange of lands shall be made contrary to a will or conveyance. Authorizing exchange of unproductive for productive property

(4) Every exchange of lands made under subsection 3 shall be conducted and confirmed in such manner as is required by the rules and practice of the Supreme Court in the case of the sale or other disposition of the lands of infants. Procedure R.S.O. 1960, c. 187, s. 4.

**5.** The Supreme Court may sanction the surrender of any lease to which an infant is entitled and, if considered expedient, the acceptance of a new lease in lieu thereof. Surrender of lease R.S.O. 1960, c. 187, s. 5.

**6.** Where an infant is entitled to lands subject to a lease containing a covenant for renewal, the Supreme Court may sanction the execution of a new lease in accordance with the covenant or with such modification as is considered expedient. Renewal of lease R.S.O. 1960, c. 187, s. 6.

**7.** Every surrender or lease made or accepted by virtue of this Act shall be deemed to be as valid and effectual as if the person by whom or in whose place it was made or accepted had been of full age and had made or accepted it. Validity of dispositions R.S.O. 1960, c. 187, s. 7.

**8.** Where it is considered convenient, the court may direct some other person to execute a conveyance, mortgage, lease or other document in the place of the infant and every such conveyance, mortgage, lease or other document, whether executed by the infant or by such other person, is as effectual as if the infant had executed it and had been of the age of twenty-one years at the time. Conveyance by a substitute R.S.O. 1960, c. 187, s. 8.

**9.** Where an infant is seised of the reversion of land subject to a lease and the lease contains a covenant not to assign or sublet without leave, the Supreme Court may, on behalf of the infant, consent to an assignment or transfer of the leasehold interest in the same manner and with the like effect as if the consent were given by a lessor under no such disability. Consent to assignment of lease by infant R.S.O. 1960, c. 187, s. 9.



Compensation to owners of particular estates

**10.** If any real estate of an infant is subject to dower and the person entitled to dower consents in writing to accept in lieu of dower a gross sum that the court considers reasonable or the permanent investment of a reasonable sum in such manner that the interest thereof is made payable to the person entitled to dower during her life, the court may direct the payment of such sum in gross out of the purchase money to the person entitled to dower as upon the principles applicable to life annuities may be considered a reasonable satisfaction for the dower, or may direct the payment to the person entitled to dower of an annual sum or of the income or interest to be derived from the purchase money or a part thereof, as seems just, and for that purpose may make such order for the investment or other disposition of the purchase money or a part thereof, as may be necessary. R.S.O. 1960, c. 187, s. 10.

Order for maintenance where power of appointment in favour of children

**11.** Where by a will or other instrument property is given beneficially to a person for his life with a power of devising or appointing the property by will in favour of his children or of one or more of them, the Supreme Court may, on the application or with the consent of the tenant for life, order that such portion of the proceeds of the property as it considers proper shall be applied towards the maintenance or education of any infant child in whose favour the power might be exercised, notwithstanding that there is a gift over in the event of there being no children to take under the power, or that there is a right conferred upon the tenant for life, or upon some other person in such event to make a disposition of the property in favour of some person other than such children. R.S.O. 1960, c. 187, s. 11.

Order for application of dividends of stock for maintenance of infants

**12.**—(1) The Supreme Court may order and direct the sale of any personal property of an infant, including any stock or bonds to which he is entitled, and may direct any money belonging to an infant and all or any part of the dividends in respect of the stock or bonds to be paid for the maintenance and education or otherwise for the benefit of the infant, and payment in accordance with such an order operates as a full release and discharge from all liability with respect to the money paid, and a transfer of any stock or bonds so sold shall be made in such manner as the court directs.

Indemnity to banks, etc.

(2) Such an order is a full and complete indemnity and discharge to all banks, companies and societies and their officers and servants for all acts and things done or permitted to be done pursuant thereto. R.S.O. 1960, c. 187, s. 12.

Power of infant with the approbation of the court to make valid marriage settlement

**13.**—(1) An infant upon or in contemplation of his marriage, with the sanction of the Supreme Court, may make a valid and binding settlement or contract for a settlement of all or any part of his property or property over which he has a power of appointment, whether real or personal and whether in possession,

reversion, remainder or expectancy, and every conveyance, appointment and assignment of such property, or contract to make a conveyance, appointment or assignment thereof, executed by the infant with the approbation of the court for the purpose of giving effect to the settlement, is as valid and effectual as if the person executing it were of the full age of twenty-one years.

(2) This section does not extend to a power that is expressly declared not to be exercisable by an infant. Exception

(3) The court may require that a person interested or appearing to be interested in the property shall be served with notice of the application. Notice to persons interested R.S.O. 1960, c. 187, s. 13.

**14.** Where an appointment under a power of appointment or a disentailing assurance has been executed by an infant tenant in tail under section 13 and the infant afterwards dies under age, the appointment or disentailing assurance thereupon becomes void. If infant dies under age, appointment or disentailing deed to be void R.S.O. 1960, c. 187, s. 14.

**15.** Nothing in sections 13 and 14 applies to a male infant under the age of twenty years or to a female infant under the age of seventeen years. Case of males under 20 or females under 17 R.S.O. 1960, c. 187, s. 15.

**16.—(1)** The surrogate court of the county or district in which an infant resides may appoint the father or mother of the infant, or may, with the consent of the father and the mother or of the surviving parent, appoint some other suitable person or persons to be the guardian or guardians of the infant, but if the infant is of the age of fourteen years, no such appointment shall be made without his consent. Appointment of guardians by surrogate court

(2) If the infant has no parent living or a guardian authorized by law to take the care of his person and the charge of his estate, if any, or if he is of the age of fourteen years and does not give the consent mentioned in subsection 1, upon the written application of the infant, or of a friend of the infant residing within the jurisdiction of the surrogate court to which the application is made, and after proof of twenty days public notice of the application in a newspaper published in the county or district of the surrogate court in which the application is made, the court may appoint some suitable and discreet person or persons to be guardian or guardians of the infant, whether the infant is or is not entitled to any property. Where no father or authorized guardian or infant does not consent

(3) Letters of guardianship granted by a surrogate court have force and effect in all parts of Ontario, and an official certificate of the grant may be obtained as in the case of letters of administration. Letters of guardianship have effect throughout Ontario R.S.O. 1960, c. 187, s. 16.

Security by  
the guardian  
R.S.O. 1970,  
cc. 196, 89

**17.** Subject to *The Guarantee Companies Securities Act* and *The Corporations Act*, the court shall take from every guardian appointed under section 16 a bond in the name of the infant in such penal sum and with such sureties as the judge approves, conditioned that the guardian will faithfully perform his trust and that he or his executors or administrators will, when the infant becomes of the full age of twenty-one years or when the guardianship is determined or sooner if thereto required by law, render a true and just account of all goods, money, interest, rents, profits or other estate of the infant that have come into the hands of the guardian, and will thereupon without delay deliver and pay over to the infant or to his executors or administrators the estate or the sum that may be in the hands of the guardian belonging to the infant, deducting therefrom and retaining a reasonable sum for the expenses and charges of the guardian, and the bond shall be recorded by the registrar of the court in the books of his office. R.S.O. 1960, c. 187, s. 17.

Removal of  
guardians

**18.**—(1) Testamentary guardians and guardians appointed or constituted by virtue of this Act are removable by the Supreme Court or by the surrogate court for the same causes for which trustees are removable.

Resignation  
of office by  
guardian

(2) Any such guardian may, by leave of the court, resign his office upon such terms and conditions as are considered just. R.S.O. 1960, c. 187, s. 18.

Returns  
respecting  
guardians to  
surrogate  
court  
R.S.O. 1970,  
c. 451

**19.** A return of every appointment and removal or resignation of a guardian shall be made by the registrar of the court to the surrogate clerk in like manner as is required by *The Surrogate Courts Act* in the case of grants of probate or administration. R.S.O. 1960, c. 187, s. 19.

Guardian's  
authority

**20.** Unless where the authority of a guardian appointed or constituted by virtue of this Act is otherwise limited, the guardian so appointed or constituted during the continuance of his guardianship,

- (a) has authority to act for and on behalf of the infant; and
- (b) has the charge and management of his estate, real and personal, and the custody of his person and the care of his education. R.S.O. 1960, c. 187, s. 20.

Appeal

**21.** An appeal lies from an order or judgment of a surrogate court under this Act to the Court of Appeal. R.S.O. 1960, c. 187, s. 21.

Practice and  
procedure  
R.S.O. 1970,  
c. 451

**22.** The practice and procedure under *The Surrogate Courts Act* and rules apply to proceedings in the surrogate court under this Act, and the power to make rules under that Act applies to proceedings under this Act. R.S.O. 1960, c. 187, s. 22.

**23.** Nothing in this Act deprives the Supreme Court of Jurisdiction  
jurisdiction in matters provided for by this Act. R.S.O. 1960, of Supreme  
c. 187, s. 23. Court not  
affected

**24.** Nothing in this Act changes the law as to the authority of Religious  
the father in respect of the religious faith in which his child is to be education  
educated. R.S.O. 1960, c. 187, s. 24. of infant

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## CHAPTER 223

### The Innkeepers Act

#### 1. In this Act,

Interpre-  
tation

- (a) “inn” includes a hotel, inn, tavern, public house or other place of refreshment, the keeper of which is by law responsible for the goods of his guests;
- (b) “innkeeper” means the keeper of any such place. R.S.O. 1960, c. 189, s. 1.

**2.—**(1) An innkeeper, boarding-house keeper or lodging-house keeper has a lien on the goods of his guest, boarder or lodger for the value or price of any food or accommodation furnished to him or on his account.

Lien on goods  
for accom-  
modation,  
etc.

(2) In addition to all other remedies provided by law, he has the right, in case the same remains unpaid for three months, to sell by public auction the goods of the guest, boarder or lodger, on giving one week’s notice of the intended sale by advertisement in a newspaper published in the municipality in which the inn, boarding house, or lodging house is situate or, in case there is no newspaper published in the municipality, in a newspaper published nearest to the inn, boarding house or lodging house.

Power  
to sell

(3) The advertisement shall state the name of the guest, boarder or lodger, the amount of his indebtedness, the time and place of sale, and the name of the auctioneer, and shall give a description of the goods to be sold.

Particulars  
in notice

(4) The innkeeper, boarding-house keeper or lodging-house keeper may apply the proceeds of the sale in payment of the amount due to him and the costs of the advertising and sale, and shall pay over the surplus, if any, to the person entitled thereto on application being made by him therefor. R.S.O. 1960, c. 189, s. 2.

Proceeds of  
sale, applica-  
tion

**3.—**(1) The keeper of a livery stable or a boarding stable has a lien on every horse or other animal boarded at or carriage left in his livery stable or boarding stable for his reasonable charges for boarding and caring for the horse, animal or carriage.

Lien on  
horses and  
carriages

(2) Where an innkeeper, boarding-house keeper, lodging-house keeper, livery-stable keeper or boarding-stable keeper has a lien upon a horse, other animal or carriage for the value or price of any food or accommodation supplied, or for care or labour

Lien on  
horses, etc.,  
and power  
to sell

bestowed thereon, he has, in addition to all other remedies provided by law, the right, in case the same remains unpaid for two weeks, to sell by public auction the horse, animal or carriage on giving two weeks notice of the intended sale by advertisement in a newspaper published in the municipality in which the inn, boarding house, lodging house, livery stable or boarding stable is situate or, in case there is no newspaper published in the municipality, in a newspaper published nearest to the inn, boarding house, lodging house, livery stable or boarding stable.

Advertise-  
ment of  
intended  
sale

(3) The advertisement shall state the name, if known, of the person or persons who brought the horse, animal or carriage to the inn, boarding house, lodging house, livery stable or boarding stable, the amount of the indebtedness, and the name of the auctioneer, and shall give a description of the horse, animal or carriage.

Proceeds of  
sale, appli-  
cation

(4) The innkeeper, boarding-house keeper, lodging-house keeper, livery-stable keeper or boarding-stable keeper may apply the proceeds of the sale in payment of the amount due to him, and the costs of the advertisement and sale, and shall pay over the surplus, if any, to the person entitled thereto on application being made by him therefor. R.S.O. 1960, c. 189, s. 3.

Limitation  
of inn-  
keeper's  
liability

**4.—**(1) No innkeeper is liable to make good to any guest of his any loss of or injury to goods brought to his inn, not being a horse or other live animal, or any gear appertaining thereto, or a carriage, to a greater amount than the sum of \$40 except,

except where  
default or  
neglect

(a) where the goods have been stolen, lost or injured through the wilful act, default, or neglect of the innkeeper or a servant in his employ;

or unless de-  
posited with  
him for safe-  
keeping

(b) where the goods have been deposited expressly for safe custody with the innkeeper.

Conditions  
of liability

(2) In case of such deposit, it is lawful for the innkeeper, if he thinks fit, to require, as a condition of his liability, that the goods shall be deposited in a box or other receptacle, fastened and sealed by the person depositing the goods. R.S.O. 1960, c. 189, s. 4.

Conse-  
quences of  
failure to  
take charge  
of goods

**5.** If an innkeeper refuses to receive for safe custody, as mentioned in clause *b* of subsection 1 of section 4, any goods of his guest or if the guest, through any default of the innkeeper, is unable to deposit such goods, the innkeeper is not entitled to the benefit of this Act in respect thereof. R.S.O. 1960, c. 189, s. 5.

Copy of sec-  
tion 4 to be  
conspicu-  
ously exhibited

**6.** Every innkeeper shall cause to be kept conspicuously posted up in the office and public rooms and in every bedroom in his inn a copy of section 4 printed in plain type, and he is entitled

to the benefit thereof in respect of such goods only as are brought to his inn while such copy is so posted up. R.S.O. 1960, c. 189, s. 6.

**7.**—(1) Subject to subsection 5, where the claim under the lien of an innkeeper, lodging-house keeper or boarding-house keeper upon the goods of his guest exceeds the amount due in respect of one week's board or lodging, the guest may, on payment or tender of that amount, obtain possession of the goods at any time before sale thereof whatever may be the amount due by the guest, unless a provincial judge upon application to him otherwise orders. Limitation upon lien of innkeeper, etc.

(2) In case of a retention or seizure by an innkeeper, lodging-house keeper or boarding-house keeper, the guest or owner of the goods seized may apply to a provincial judge who may in a summary manner make such order as to the custody of the goods as seems fair to him under the circumstances, notwithstanding the lien created by this Act or otherwise. Jurisdiction of provincial judge

(3) Every person who contravenes subsection 1 or an order made under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for not more than thirty days, or to both. Offence

(4) Notwithstanding any other provision of this Act, a provincial judge acting under subsections 1 to 3 shall exercise his absolute discretion as to the disposal of any matter coming before him under such subsections. Discretion of provincial judge

(5) Where possession of the goods of a guest is claimed by an innkeeper under his lien thereon, the guest or the owner of the goods is only entitled to obtain possession thereof under subsection 1 by an order of a provincial judge upon application made by the guest or owner for such order and after notice of the application has been given in writing to the innkeeper in accordance with the directions of the provincial judge. R.S.O. 1960, c. 189, s. 7, *amended*. Application for recovery where goods held by innkeeper

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## CHAPTER 224

**The Insurance Act**

## INTERPRETATION

**1.** In this Act, except where inconsistent with the interpretation sections of any Part,

Interpre-  
tation

1. “accident insurance” means insurance by which the insurer undertakes, otherwise than incidentally to some other class of insurance defined by or under this Act, to pay insurance money in the event of accident to the person or persons insured, but does not include insurance by which the insurer undertakes to pay insurance money both in the event of death by accident and in the event of death from any other cause;
2. “accidental death insurance” means insurance undertaken by an insurer as part of a contract of life insurance whereby the insurer undertakes to pay an additional amount of insurance money in the event of the death by accident of the person whose life is insured;
3. “actuary” means a Fellow of the Canadian Institute of Actuaries;
4. “adjuster” means a person who,
  - i. on behalf of an insurer or an insured, for compensation, directly or indirectly solicits the right to negotiate the settlement of or investigate a loss or claim under a contract or a fidelity, surety or guaranty bond issued by an insurer, or investigates, adjusts or settles any such loss or claim, or
  - ii. holds himself out as an adjuster, investigator, consultant or adviser with respect to the settlement of such losses or claims,

but does not include,

- iii. a barrister or solicitor acting in the usual course of his profession,
- iv. a trustee or agent of the property insured,
- v. a salaried employee of a licensed insurer while acting on behalf of such insurer in the adjustment of losses,
- vi. a person who is employed as an appraiser, engineer

or other expert solely for the purpose of giving expert advice or evidence, or

vii. a person who acts as an adjuster of marine losses only;

5. “agent” means a person who, for compensation, not being a duly licensed insurance broker or not being a person acting under the authority of subsection 15, 16, 17 or 18 of section 342, solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for or a policy of insurance to or from such insurer or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal;
6. “aircraft insurance” means insurance against loss of or damage to an aircraft and against liability for loss or damage to persons or property caused by an aircraft or by the operation thereof;
7. “appeal” includes a judicial revision or review of a judgment, decision, order, direction, determination, finding or conviction, and a case stated or reserved, and a removal of proceedings by way of *certiorari* or otherwise;
8. “automobile” includes a trolley bus and a self-propelled vehicle, and the trailers, accessories and equipment of automobiles, but does not include railway rolling stock that runs on rails, watercraft or aircraft;
9. “automobile insurance” means insurance,
  - (a) against liability arising out of,
    - (i) bodily injury to or the death of a person, or
    - (ii) loss of or damage to property,caused by an automobile or the use or operation thereof; or
  - (b) against loss of or damage to an automobile and the loss of use thereof,and includes insurance otherwise coming within the class of accident insurance where the accident is caused by an automobile or the use or operation thereof, whether liability exists or not, if the contract also includes insurance described in clause a;
10. “boiler and machinery insurance” means insurance against loss or damage to property and against liability for loss or damage to persons or property through the explosion, collapse, rupture or breakdown of, or accident to, boilers or machinery of any kind;

11. “broker” means a person who, for compensation, not being a licensed agent or not being a person acting under the authority of subsection 15, 16, 17 or 18 of section 342, acts or aids in any manner in negotiating contracts of insurance or placing risks or effecting insurance or in negotiating the continuance or renewal of such contracts for a person other than himself;
12. “cash-mutual corporation” means a corporation without share capital or with guarantee capital stock subject to repayment by the corporation, in respect of which the dividend rate is limited by its Act or instrument of incorporation, that is empowered to undertake insurance on both the cash plan and the mutual plan;
13. “chief agency” means the principal office or place of business in Ontario of any licensed insurer having its head office out of Ontario;
14. “contract” means a contract of insurance, and includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement;
15. “credit insurance” means insurance against loss to the insured through the insolvency or default of a person to whom credit is given in respect of goods, wares or merchandise;
16. “disability insurance” means insurance undertaken by an insurer as part of a contract of life insurance whereby the insurer undertakes to pay insurance money or to provide other benefits in the event that the person whose life is insured becomes disabled as a result of bodily injury or disease;
17. “due application” includes such information, evidence and material as the Superintendent requires to be furnished, and also the payment of the fees hereinafter prescribed in respect of any application, certificate or document required or issued by virtue of this Act;
18. “employers’ liability insurance” means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss to an employer through liability for accidental injury to or death of an employee arising out of or in the course of his employment, but does not include workmen’s compensation insurance;
19. “endowment insurance”, as applied to a fraternal society, means an undertaking to pay an ascertained or ascertainable sum at a fixed future date if the person whose life is insured is then alive, or at his death if he dies before such date;



20. “exchange” or “reciprocal or inter-insurance exchange” means a group of subscribers exchanging reciprocal contracts of indemnity or inter-insurance with each other through the same attorney;
21. “foreign jurisdiction” means a jurisdiction other than Ontario;
22. “fire insurance” means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss of or damage to property through fire, lightning or explosion due to ignition;
23. “fraternal society” means a society, order or association incorporated for the purpose of making with its members only, and not for profit, contracts of life, accident or sickness insurance in accordance with its constitution, by-laws and rules and this Act;
24. “governing executive authority” means the executive committee, executive board, management committee, grand executive committee or such other board, committee or body as is charged under the constitution and rules of a fraternal society with its general management between general meetings;
25. “guarantee insurance” means the undertaking to perform an agreement or contract or to discharge a trust, duty or obligation upon default of the person liable for such performance or discharge or to pay money upon such default or in lieu of such performance or discharge, or where there is loss or damage through such default, but does not include credit insurance;
26. “hail insurance” means insurance against loss of or damage to growing crops caused by hail;
27. “head office” means the place where the chief executive officer of an insurer transacts his business;
28. “industrial contract” means a contract of life insurance for an amount not exceeding \$2,000, exclusive of any benefit, surplus, profit, dividend or bonus also payable under the contract, and that provides for payment of premiums at fortnightly or shorter intervals, or, if the premiums are usually collected at the home of the insured, at monthly intervals;
29. “inland transportation insurance” means insurance (other than marine insurance) against loss of or damage to property,
  - i. while in transit or during delay incidental to transit, or

- ii. where, in the opinion of the Superintendent, the risk is substantially a transit risk;
- 30. "insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event;
  - 31. "insurance fund" or "insurance funds", as applied to a fraternal society or as applied to a corporation not incorporated exclusively for the transaction of insurance, includes all money, securities for money and assets appropriated by the rules of the society or corporation to the payment of insurance liabilities or appropriated for the management of the insurance branch or department or division of the society, or otherwise legally available for insurance liabilities, but does not include funds of a trade union appropriated to or applicable for the voluntary assistance of wage earners unemployed or upon strike;
  - 32. "insurance money" means the amount payable by an insurer under a contract, and includes all benefits, surplus, profits, dividends, bonuses, and annuities payable under the contract;
  - 33. "insurance on the cash plan" means any insurance that is not mutual insurance;
  - 34. "insurer" means the person who undertakes or agrees or offers to undertake a contract;
  - 35. "life insurance" means insurance whereby an insurer undertakes to pay insurance money,
    - (a) on death; or
    - (b) on the happening of an event or contingency dependent on human life; or
    - (c) at a fixed or determinable future time; or
    - (d) for a term dependent on human life,and, without restricting the generality of the foregoing, includes accidental death insurance but not accident insurance;
  - 36. "live stock insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss through the death or sickness of or accident to an animal;
  - 37. "lodge" includes a primary subordinate division, by whatever name known, of a fraternal society;

38. "marine insurance" means insurance against marine losses, that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air that are incidental to a sea voyage;
39. "Minister" means the Minister of Financial and Commercial Affairs;
40. "motor vehicle liability policy" means a policy or part of a policy evidencing a contract insuring,
  - (a) the owner or driver of an automobile; or
  - (b) a person who is not the owner or driver thereof where the automobile is being used or operated by his employee or agent or any other person on his behalf,against liability arising out of bodily injury to or the death of a person or loss or damage to property caused by an automobile or the use or operation thereof;
41. "mutual benefit society" means a mutual corporation formed for the purpose of providing sick and funeral benefits for its members, or for these and any other purposes necessary or incidental thereto except life insurance, but does not include a pension fund or employees' mutual benefit society incorporated under or subject to *The Corporations Act*;
42. "mutual corporation" means a corporation without share capital or with guarantee capital stock subject to repayment by the corporation, in respect of which the dividend rate is limited by its Act or instrument of incorporation, that is empowered to undertake mutual insurance exclusively;
43. "mutual insurance" means a contract of insurance in which the consideration is not fixed or certain at the time the contract is made and is to be determined at the termination of the contract or at fixed periods during the term of the contract according to the experience of the insurer in respect of all similar contracts, whether or not the maximum amount of such consideration is predetermined;
44. "non-owner's policy" means a motor vehicle liability policy insuring a person solely in respect of the use or operation by him or on his behalf of an automobile that is not owned by him;
45. "officer" includes a trustee, director, manager, treasurer, secretary or member of the board or committee of management of an insurer and a person appointed by the insurer to sue and be sued in its behalf;

46. "owner's policy" means a motor vehicle liability policy insuring a person in respect of the ownership, use or operation of an automobile owned by him and within the description or definition thereof in the policy and, if the contract so provides, in respect of the use or operation of any other automobile;
47. "paid in", when applied to the capital stock of an insurer or to any shares thereof, means the amount paid to the insurer on its shares, not including the premium, if any, paid thereon, whether such shares are or are not fully paid;
48. "paid up", when applied to the capital stock of an insurer or to any shares thereof, means the capital stock or shares on which there remains no liability, actual or contingent, to the issuing insurer;
49. "pension fund association" means a company, corporation or association incorporated before the year 1910, under or by virtue of any law of the Province of Quebec, for the purpose of providing a pension for those persons who have contributed to a fund therefor during a certain number of years, and includes any auxiliary funds incorporated for the purpose of guaranteeing the repayment of any sum to those who contributed to such pension fund during a certain number of years, or for the purpose of assuring a life pension to those contributing a sum of money to such pension fund, or for these and similar purposes;
50. "plate glass insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss of or damage to plate, sheet or window glass, whether in place or in transit;
51. "policy" means the instrument evidencing a contract;
52. "premium" means the single or periodical payment under a contract for the insurance, and includes dues, assessments and other considerations;
53. "premium note" means an instrument given as consideration for insurance whereby the maker undertakes to pay such sum or sums as may be legally demanded by the insurer, but the aggregate of which sums does not exceed an amount specified in the instrument;
54. "property" includes profits, earnings and other pecuniary interests, and expenditure for rents, interest, taxes and other outgoings and charges and in respect of inability to occupy the insured premises, but only to the extent of express provision in the contract;



55. “property damage insurance” means insurance against loss of or damage to property that is not included in or incidental to some other class of insurance defined by or under this Act;
56. “public liability insurance” means insurance against loss or damage to the person or property of others that is not included in or incidental to some other class of insurance defined by or under this Act;
57. “regulations” means the regulations made under this Act;
58. “salesman” means a person who is employed by a licensed insurance agent or broker on a stated salary that is not supplemented by commission, bonus or any other remuneration to solicit insurance or transact, for a person other than himself, an application for a policy of insurance, or to act in the negotiation of such insurance or in negotiating its continuance or renewal, or collects and receives premiums on behalf of his employer only, but does not include a licensed insurance agent, broker or employee engaged solely in office duties for an agent or broker or a person acting under the authority of subsection 15, 16 or 17 of section 342;
59. “sick and funeral benefits” includes insurance against sickness, disability or death under which the moneys payable upon the happening of sickness, disability or death do not exceed the limits prescribed by section 321;
60. “sickness insurance” means insurance by which the insurer undertakes to pay insurance money in the event of sickness of the person or persons insured, but does not include disability insurance;
61. “sprinkler leakage insurance” means insurance against loss of or damage to property through the breakage or leakage of sprinkler equipment or other fire protection system, or of pumps, water pipes or plumbing and its fixtures;
62. “Superintendent” means the Superintendent of Insurance, and includes the Deputy Superintendent of Insurance;
63. “theft insurance” means insurance against loss or damage through theft, wrongful conversion, burglary, house-breaking, robbery or forgery;
64. “title insurance” means insurance against loss or liability for loss due to the invalidity of the title to any property or of any instrument, or to any defect in such title or instrument;

65. "upon proof", as applied to any matter connected with the licensing of an insurer or other person, means upon proof to the satisfaction of the Superintendent;
66. "weather insurance" means insurance against loss or damage through windstorm, cyclone, tornado, rain, hail, flood or frost, but does not include hail insurance;
67. "workmen's compensation insurance" means insurance of an employer against the cost of compensation prescribed by statute for bodily injury, disability or death of a workman through accident or disease arising out of or in the course of his employment. R.S.O. 1960, c. 190, s. 1; 1961-62, c. 63, s. 1; 1964, c. 47, s. 1; 1966, c. 71, s. 1; 1968-69, c. 53, s. 1; 1970, c. 134, s. 1.

## PART I

### SUPERINTENDENT AND HIS DUTIES

**2.**—(1) A Superintendent of Insurance shall be appointed who shall exercise the powers and perform the duties vested or imposed upon him by this or any other Act, shall have the general supervision of the business of insurance in Ontario and shall see that the laws relating to the conduct thereof are enforced and obeyed. Superintendent

(2) The Superintendent may, with the consent of the Minister, designate a person in his office to act as Superintendent during the absence or inability of the Superintendent. 1964, c. 47, s. 2, *part*. Acting Superintendent

**3.** For the purposes of his duties and in the exercise of his powers under this Act or under any other Act relating to insurance, the Superintendent may require to be made and may take and receive affidavits, statutory declarations and depositions, and may examine witnesses upon oath, and he has the same power to summon persons to attend as witnesses, and to enforce their attendance, and to compel them to produce books, documents and things, and to give evidence as any court has in civil cases. R.S.O. 1960, c. 190, s. 4. Evidence

**4.** An oath required by this Act to be taken may be administered and certified to by the Superintendent or by any person authorized to administer oaths in Ontario. R.S.O. 1960, c. 190, s. 5. Oaths

**5.** Neither the Superintendent nor any officer under him shall be interested as a shareholder, directly or indirectly, in any insurance company doing business in Ontario. R.S.O. 1960, c. 190, s. 6. Independence of Superintendent and officers

Actions  
against  
Super-  
intendent

**6.**—(1) Without a fiat of the Minister of Justice and Attorney General, no action or proceeding shall be brought or taken against the Superintendent for anything done or omitted in the performance or intended or supposed performance of his duty under this Act, or under any other Act that imposes duties upon him. R.S.O. 1960, c. 190, s. 7 (1), *amended*.

Super-  
intendent  
may bring  
actions, etc.

(2) The Superintendent may bring actions and institute proceedings in his name of office for the enforcement of any of the provisions of this Act or for the recovery of fees and penalties payable under this Act.

Leave

(3) No action or proceeding for the recovery of fees and penalties payable under this Act shall be commenced without the leave of the Superintendent. R.S.O. 1960, c. 190, s. 7 (2, 3).

Records of  
Super-  
intendent

**7.**—(1) The Superintendent shall keep the following books and records:

1. A register of all licences issued under this Act, in which shall appear the name of the insurer, the address of the head office, the address of the principal office in Canada, the name and address of the chief or general agent in Ontario, the number of the licence issued, particulars of the classes of insurance for which the insurer is licensed, and such other information as the Superintendent considers necessary.
2. A record of all securities deposited by each insurer with the Minister, naming in detail the several securities, their par value, their date of maturity and value at which they are received as deposit. R.S.O. 1960, c. 190, s. 8 (1); 1964, c. 47, s. 3 (1); 1968, c. 58, s. 1.

Inspection

(2) The books and records required by this section to be kept shall be open to inspection at such times and upon payment of such fees as are prescribed by the regulations. R.S.O. 1960, c. 190, s. 8 (2); 1964, c. 47, s. 3 (2).

Annual  
publication  
in *Ontario  
Gazette*,  
notice of  
licence

**8.**—(1) The Superintendent shall cause to be published in *The Ontario Gazette* in July of each year a list of the insurers licensed at the date of the list, and shall from time to time cause notice of the licence of an insurer not theretofore licensed and notice of suspension or cancellation or revivor of licence to be given by publication in *The Ontario Gazette*.

Certificate  
of Superin-  
tendent is  
evidence of  
licence, etc.

(2) A certificate under the hand and seal of office of the Superintendent that on a stated day an insurer mentioned therein was or was not licensed under this Act, or that any insurer was originally admitted to licence, or that the licence of any insurer was renewed, suspended, revived, revoked or cancelled on a stated day, is admissible in evidence as *prima facie* proof of the facts stated in the certificate.

(3) A certificate of the filing of any document required by this Act or any predecessor thereof to be filed in the office of the Provincial Registrar or of the Superintendent is admissible in evidence as *prima facie* proof of the filing if signed or purporting to be signed by the Deputy or Assistant or by the acting Deputy or Assistant Provincial Registrar or by the Superintendent, as the case may be. R.S.O. 1960, c. 190, s. 9.

Evidence,  
filing of  
documents

**9.** The duty of determining the right of any insurer in Ontario to be licensed under this Act devolves upon the Superintendent, subject to appeal as hereinafter provided, but nothing in this section affects the right of the Lieutenant Governor in Council or of the Minister to suspend or cancel any licence in the exercise of his authority under this Act. R.S.O. 1960, c. 190, s. 10.

Superin-  
tendent to  
determine  
right of  
insurer to  
be licensed

**10.**—(1) Every decision of the Superintendent upon an application for a licence shall be in writing and notice thereof shall be forthwith given to the insurer.

Decision of  
Super-  
intendent

(2) The insurer, or any person interested, is entitled, upon payment of the prescribed fee, to a certified copy of the decision.

Certified  
copy

(3) The evidence and proceedings in any matter before the Superintendent may be reported by a stenographer sworn before the Superintendent to faithfully report the same. R.S.O. 1960, c. 190, s. 11.

Steno-  
graphic  
report

**11.**—(1) An applicant for a licence under this Act or any person who considers himself aggrieved by a decision of the Superintendent may appeal therefrom to the Court of Appeal.

Appeal

(2) The appeal shall be set down for argument at the first sitting of the Court of Appeal that commences after the expiration of thirty days from the decision complained of.

When to be  
set down

(3) The practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action.

Procedure

(4) The Superintendent shall certify to the Registrar of the Court of Appeal the decision appealed from, his reasons therefor, and the documents, inspection reports and evidence, if any, and such other information as he had before him in making his decision. R.S.O. 1960, c. 190, s. 12, *amended*.

Certificate

**12.** The Superintendent may direct to an insurer any inquiry touching the contracts or financial affairs of the insurer, and the insurer shall make prompt and explicit answer to any such inquiry, and, in case of refusal or neglect to answer, is guilty of an offence. R.S.O. 1960, c. 190, s. 13.

Conse-  
quences of  
failure to  
answer  
inquiries



Access to  
books

**13.** The Superintendent, or any person authorized under his hand or seal of office, shall, at all reasonable times, have access to all the books, securities and documents of an insurer, agent or broker that relate to contracts of insurance, and any officer or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access is guilty of an offence. R.S.O. 1960, c. 190, s. 14.

Duty to  
furnish  
information  
on request

**14.—**(1) It is the duty of the officers and agents of a licensed insurer, and of persons licensed under this Act, or of any insured, to furnish the Superintendent on his request with full information relating to any contract of insurance issued by the insurer or to the insured that comes within the terms of sections 97 and 146 or relative to any settlement or adjustment under any such contract.

Inspection

(2) The Minister may, in his discretion, instruct the Superintendent to visit the head office or chief agency from which the contract was issued, or the office of the adjuster, and inquire into such contract or settlement, and section 13 applies *mutatis mutandis* to such inquiry. R.S.O. 1960, c. 190, s. 15.

Annual  
inspection  
of insurers

**15.—**(1) The Superintendent shall visit personally, or cause a duly qualified member of his staff to visit, at least annually, the head office or chief office in Ontario of every licensed insurer, other than a mutual benefit society having fewer than 300 members and an insurer as to which he adopts the inspection of some other government, and he shall examine the statements of the condition and affairs of each such insurer filed under this Act, and make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its contracts as they mature and whether or not it has complied with all the provisions of this Act applicable to its transactions, and the Superintendent shall report thereon to the Minister as to all matters requiring his attention and decision.

Examina-  
tion of  
affairs of  
insurer

(2) Where the head office of such an insurer is not in Ontario and the Superintendent considers it necessary and expedient to make a further examination into its affairs and so reports to the Minister, the Minister may, in his discretion, instruct the Superintendent to visit the head office of such insurer to inspect and examine its affairs and to make such further inquiries as the Minister may require.

Duty of  
officers and  
agents

(3) The officers and agents of such insurer shall cause the books and records of the insurer to be opened for the inspection of the Superintendent and shall otherwise facilitate such examination so far as it is in their power.

Production  
of books at  
head office  
or as Super-  
intendent  
directs

(4) In order to facilitate the inspection of the books and records of an insurer, the insurer may be required by the Superintendent with the approval of the Minister, to produce the books and records at the head office or chief office in Ontario of

the insurer or at such other convenient place as the Superintendent directs, and the officer or officers of the insurer who have custody of the books and records are entitled to be paid by the insurer for the actual expenses of such attendance.

(5) The Superintendent, with the approval of the Minister, may cause abstracts to be prepared of the books and vouchers and a valuation to be made of the assets or liabilities of any such insurer and the cost thereof upon the certificate of the Superintendent approved by the Minister shall be paid by the insurer. R.S.O. 1960, c. 190, s. 16 (1-5).

Examination of affairs of an insurer

(6) Where the office of an insurer at which an examination is made under this section is out of Ontario, the insurer shall pay the account in connection with such examination upon the certificate of the Superintendent approved by the Minister. R.S.O. 1960, c. 190, s. 16 (6); 1964, c. 47, s. 4.

Expenses of examination

**16.**—(1) Where the head office of a licensed insurer is situate out of Ontario, notice or process in any action or proceeding in Ontario may be served upon the Superintendent and such service shall be deemed service upon the insurer in the case of a corporation and upon members of the insurer in the case of an unincorporated body or association.

Service of notice or process on Superintendent

(2) Every licensed insurer shall file in the office of the Superintendent notice of a post office address to which any such notice or process may be forwarded by the Superintendent and shall from time to time notify the Superintendent of any change in the address so filed.

Insurer to file address

(3) The Superintendent shall forthwith after the receipt of any such notice or process forward it to the insurer by registered mail addressed in the manner last notified to him for this purpose by the insurer. R.S.O. 1960, c. 190, s. 17.

Superintendent to forward notice or process

**17.**—(1) The Superintendent shall prepare for the Minister, from the statements filed by the insurers and from any inspection or inquiries made, an annual report, showing particulars of the business of each insurer as ascertained from such statement, inspection and inquiries, and such report shall be printed and published forthwith after completion. R.S.O. 1960, c. 190, s. 18 (1).

Annual report

(2) In his annual report the Superintendent shall allow as assets only such of the investments of the several insurers as are authorized by this Act, or by their Acts or instruments of incorporation, or by the general Acts applicable to such investments. R.S.O. 1960, c. 190, s. 18 (2); 1970, c. 134, s. 2.

Permissible investments

(3) In his annual report the Superintendent shall make all necessary corrections in the annual statements made by all licensed insurers as provided in this Act, and he is at liberty to

Superintendent's corrections of annual statements

increase or diminish the liabilities of such insurers to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office thereof in Ontario, or otherwise.

Appraise-  
ment of real  
estate owned  
by insurer

(4) If it appears to the Superintendent, or if he has any reason to suppose, from the annual statements prepared and delivered to him by all insurers that the value placed by any insurer, incorporated and licensed in Ontario, upon the real estate owned by it or any parcel thereof is too great, he may either require such insurer to secure an appraisal of such real estate by one or more competent valuers, or may himself procure such appraisal at the expense of the insurer, and the appraised value, if it varies materially from the statement or return made by the insurer, may be substituted in the annual report of the Superintendent.

Appraise-  
ment of real  
estate held  
as security  
for loans

(5) In like manner, if it appears to the Superintendent, or if he has any reason to suppose, that the amount secured by mortgage or hypothec upon any parcel of real estate, together with the interest due and accrued thereon, is greater than the value of the parcel, or that the parcel is not sufficient for the loan and interest, he may procure an appraisal thereof and, if from the appraised value it appears that the parcel is not adequate security for the loan and interest, he may write off the loan and interest a sum sufficient to reduce the loan to such an amount as may fairly be realizable from the security, in no case to exceed the appraised value, and he may insert the reduced amount in his annual report.

Appraise-  
ment of  
other  
investments

(6) In like manner, if it appears to the Superintendent, or if he has any reason to suppose, that the value of any other investment of the funds of the insurer is less than the amount of the value of the investments shown in the books of the insurer, he may make or cause to be made an appraisal of the security, and, if from the appraised value it appears that the value of the security as shown on the books of the insurer is greater than its true value as shown by the appraisal, he may reduce the book value of the security to such amount as may fairly be realizable from the security, in no case to exceed the appraised value, and he may insert the reduced amount in his annual report. R.S.O. 1960, c. 190, s. 18 (3-6).

Publication  
by  
Superintend-  
ent

**18.** The Superintendent may publish from time to time notices, reports, correspondence, results of hearings, decisions and any other matter considered by the Superintendent to be in the public interest. 1970, c. 134, s. 3.

Super-  
intendent  
to report on  
petition for  
authoriza-  
tion of court  
bonds

**19.** Upon request by the Minister, the Superintendent shall prepare for the consideration of the Lieutenant Governor in Council a report upon the petition of an insurer, praying to have its bonds authorized by order in council for acceptance in lieu of personal or private suretyship pursuant to any Act of Ontario



wherein or whereby the Lieutenant Governor in Council is empowered to authorize the giving or acceptance of securities or of the personal bonds of sureties, and in such report the Superintendent shall set out all material facts relating to the age, paidup capital, surplus of assets over liabilities, underwriting experience and generally such other information relating to the financial condition and standing of the insurer as, in his opinion, should govern the granting or refusal of the petition. R.S.O. 1960, c. 190, s. 19.

## PART II

### GENERAL PROVISIONS APPLICABLE TO INSURERS

**20.**—(1) This Part applies to insurance undertaken in Ontario and to all insurers carrying on business in Ontario.

Application  
of Part

(2) An insurer undertaking a contract of insurance that under this Act is deemed to be made in Ontario, whether the contract is original or renewed, except the renewal from time to time of life insurance policies, shall be deemed to be undertaking insurance in Ontario within the meaning of this Part.

Undertaking  
insurance

(3) An insurer undertaking insurance in Ontario or that in Ontario sets up or causes to be set up a sign containing the name of an insurer, or that in Ontario maintains or operates, either in its own name or in the name of its agent or other representative, an office for the transaction of the business of insurance either in or out of Ontario, or that in Ontario distributes or publishes or causes to be distributed or published any proposal, circular, card, advertisement, printed form or like document, or that in Ontario makes or causes to be made any written or oral solicitation for insurance, or that in Ontario issues or delivers any policy of insurance or interim receipt or collects or receives or negotiates for or causes to be collected or received or negotiated for any premium for a contract of insurance or inspects any risk or adjusts any loss under a contract of insurance, or that prosecutes or maintains in Ontario an action or proceeding in respect of a contract of insurance, or a club, society or association incorporated or unincorporated that receives, either as trustees or otherwise, contributions or moneys from its members out of which gratuities or benefits are paid directly or indirectly upon the death of its members, or any of them, shall be deemed to be an insurer carrying on business in Ontario within the meaning of this Act. R.S.O. 1960, c. 190, s. 20.

Carrying on  
business

### LICENCES

**21.**—(1) Every insurer undertaking insurance in Ontario or carrying on business in Ontario shall obtain from the Minister and hold a licence under this Act.

Necessity  
for licence



Prohibition (2) Every insurer undertaking insurance or carrying on business in Ontario without having obtained a licence as required by this section is guilty of an offence.

Prohibition against person acting on behalf of unlicensed insurer (3) A person who in Ontario does or causes to be done any act or thing mentioned in subsection 3 of section 20 on behalf of or as agent of an insurer not licensed under this Act or who receives directly or indirectly any remuneration for so doing is guilty of an offence.

Exception (4) The following shall not be deemed insurers within the meaning of this Act or required or entitled to be licensed as such:

- R.S.O. 1970, c. 89
1. Pension fund societies or employees' mutual benefit societies incorporated under *The Corporations Act*.
  2. Corporations mentioned in paragraphs 3 and 4 of section 292.
  3. A trade union in Ontario that under the authority of its incorporating Act or charter has an assurance or benefit fund for the benefit of its own members exclusively.
  4. Mutual benefit societies whose memberships are confined to railway employees and that do not grant mortuary or funeral benefits.

Unauthorized insurance (5) An insurer incorporated and licensed by Ontario that carries on or solicits business in any foreign jurisdiction without being first authorized so to do under the laws of the foreign jurisdiction is guilty of an offence. R.S.O. 1960, c. 190, s. 21.

Reinsurance with unlicensed insurer **22.** Nothing in this Act prevents a licensed insurer who has lawfully effected a contract of insurance in Ontario from reinsuring the risk or part thereof with an insurer transacting business out of Ontario and not licensed under this Act. R.S.O. 1960, c. 190, s. 22.

What insurers may be licensed **23.**—(1) Upon due application and upon proof of compliance with this Act, the Minister may issue a licence to undertake contracts of insurance and carry on business in Ontario to any insurer coming within one of the following classes:

1. Joint stock insurance companies.
2. Mutual insurance corporations.
3. Cash-mutual insurance corporations.
4. Fraternal societies.
5. Mutual benefit societies.
6. Companies duly incorporated to undertake insurance contracts and not within classes 1 to 5.

7. Reciprocal or inter-insurance exchanges.
8. Underwriters or syndicates of underwriters operating on the plan known as Lloyds.
9. Pension fund associations.

(2) A licence issued under this Act authorizes the insurer named therein to exercise in Ontario all rights and powers reasonably incidental to the carrying on of the business of insurance named therein that are not inconsistent with this Act or with its Act or instrument of incorporation or organization. R.S.O. 1960, c. 190, s. 23.

Effect of  
licence

**24.**—(1) The Lieutenant Governor in Council may make regulations determining and defining classes of insurance for the purposes of this Act and of licences granted to insurers under this Act.

Classes of  
insurance

(2) Subject to the provisions of the Parts of this Act that particularly relate to the classes of insurers mentioned in section 23, a licence may be granted to an insurer to carry on any one or more of the classes of insurance defined in section 1 and such other classes as are prescribed by the regulations.

Licence to  
carry on  
insurance  
business

(3) For the purposes of this Act, the Superintendent may determine the class or classes of insurance into which the circumstances or conditions in any case may bring any insurance granted or that may be granted in respect thereto, and the policy form for the class of insurance to be used thereunder.

Determina-  
tion of  
classes of  
insurance  
by Super-  
intendent

(4) Any licence may be issued subject to such limitations and conditions as the Minister may prescribe. R.S.O. 1960, c. 190, s. 24.

Limited or  
conditional  
licence

**25.**—(1) A licence to carry on automobile insurance in Ontario is subject to the following conditions:

Conditions  
of auto-  
mobile  
insurance  
licence

1. In any action in Ontario against the licensed insurer or its insured arising out of an automobile accident in Ontario, the insurer shall appear and shall not set up any defence to a claim under a contract made outside Ontario, including any defence as to the limit or limits of liability under the contract, that might not be set up if the contract were evidenced by a motor vehicle liability policy issued in Ontario.
2. In any action in another province or territory of Canada against the licensed insurer, or its insured, arising out of an automobile accident in that province or territory, the insurer shall appear and shall not set up any defence to a claim under a contract evidenced by a motor vehicle liability policy issued in Ontario, including any defence

as to the limit or limits of liability under the contract, that might not be set up if the contract were evidenced by a motor vehicle liability policy issued in the other province or territory.

Penalty  
for  
breach

(2) A licence may be cancelled when the holder commits a breach of condition as set out in subsection 1. 1966, c. 71, s. 2.

Scope of life  
insurance  
licence

**26.** Every insurer licensed for the transaction of life insurance may, under the authority of its licence, unless the licence expressly provides otherwise,

- (a) include in any policy of life insurance, in respect of the same life or lives insured thereby, disability insurance and accidental death insurance; and
- (b) transact annuities of all kinds and insurance providing for the establishment of accumulation or endowment funds. 1961-62, c. 63, s. 2.

Scope of  
insurance  
licence

**27.**—(1) Every insurer licensed to carry on fire insurance may, subject to its Act of incorporation and subject to the restrictions prescribed by the licence, insure or reinsure any property in which the insured has an insurable interest against loss or damage by fire, lightning or explosion and may insure or reinsure the same property against loss or damage from falling aircraft, earthquake, windstorm, tornado, hail, sprinkler leakage, riot, malicious damage, weather, water damage, smoke damage, civil commotion and impact by vehicles and any one or more perils falling within such other classes of insurance as are prescribed by the regulations.

Insurance of  
automobiles

(2) An insurer licensed to carry on fire insurance may insure an automobile against loss or damage under a policy falling within Part IV. of this Act, but, in the case of a purely mutual fire insurance corporation, incorporated or licensed in Ontario and carrying on business on the premium note plan, the automobile shall be specifically insured under a policy separate from that insuring other property. R.S.O. 1960, c. 190, s. 27.

Capital  
requirements  
for licence

**28.**—(1) A licence shall not be granted to a joint stock insurance company not licensed before the 1st day of January, 1971 unless the company furnishes to the Superintendent satisfactory evidence that,

- (a) if the company is applying for a licence to transact the business of life insurance, the company has paid up capital and surplus of not less than \$2,000,000, or such greater amount as the Minister in the circumstances may require, of which at least \$1,000,000 is paid up capital and at least \$500,000 is unimpaired surplus; and

- (b) if the company is applying for a licence to transact any class or classes of business other than life insurance, the company has paid up capital and surplus of not less than \$1,000,000, or such greater amount as the Minister in the circumstances may require, of which at least \$500,000 is paid up capital and at least \$250,000 is unimpaired surplus. 1970, c. 134, s. 4, *amended*.

(2) A licence shall not be granted to a mutual insurance corporation, a cash-mutual insurance corporation, an insurance company mentioned in paragraph 6 of subsection 1 of section 23, a reciprocal or inter-insurance exchange, or to an underwriter or syndicate of underwriters operating on the plan known as Lloyds, except upon proof that the net surplus of assets over all liabilities exceeds the amount fixed by subsection 1 for the paid in capital stock of joint stock insurance companies, and that such net surplus of assets over all liabilities together with the contingent liability of members, if any, exceeds the amount fixed by subsection 1 for the subscribed and allotted capital stock of joint stock insurance companies for the respective classes of insurance mentioned therein. Idem

(3) Subsection 2 does not apply to a purely mutual insurance corporation incorporated under the law of Ontario and insuring only risks other than mercantile and manufacturing on the premium note plan. Application of sub-section 2

(4) A licence shall not be granted to an insurer except upon proof that it has complied with the provisions of this Act and the regulations applicable to it. Application of other Parts

(5) A licence shall not be granted to an insurer for the transaction of both fire and life insurance unless it maintains separate and distinct accounts, funds and securities in respect of its business of life insurance, and those funds and securities are available only for the protection of the holders of its policies of life insurance and are not liable for the payment of claims arising from any other class of insurance that it undertakes, and it complies with such other requirements as the Superintendent may impose for the purposes of this subsection. Licence for both fire and life

(6) Where the head office of an applicant for a licence under this Act is situate out of Ontario, a licence shall not be granted except upon proof of its ability to provide for the payment at maturity of all its contracts, but the Superintendent may accept as sufficient the fact that it is licensed by any other government in Canada. Evidence by insurer when head office is outside Ontario

(7) A licence shall not be granted to a corporation that is incorporated under the law of a province other than Ontario unless its head office and chief place of business is situate in that province. R.S.O. 1960, c. 190, s. 29 (2-7). Licence of extra-provincial corporation



Information  
preliminary  
to licence

**29.** The Superintendent may require such notice of the application for a licence to be given by publication in *The Ontario Gazette* and elsewhere as he considers necessary. R.S.O. 1960, c. 190, s. 30.

Documents  
to be filed by  
applicants  
for licence

**30.**—(1) Before the issue of a licence to an insurer, such insurer shall file in the office of the Superintendent the following documents:

1. A certified copy of its Act or other instrument of incorporation or association and of its constitution and by-laws and regulations verified in a manner satisfactory to the Superintendent.
2. A certified copy of its last balance sheet and auditor's report thereon.
3. If the head office of the insurer is out of Ontario, notice of the place where the chief office of the insurer in Ontario is to be situate.
4. Copies of all policy forms and forms of application for insurance proposed to be used by the insurer in Ontario.
5. Any evidence or documents required by other Parts of this Act.

Evidence

(2) The applicant for a licence shall furnish such evidence as the Superintendent considers necessary that the requirements of this Act have been complied with and that the applicant is entitled to the licence applied for. R.S.O. 1960, c. 190, s. 31.

Statement  
of expenses  
of organiza-  
tion

**31.**—(1) Upon application being made for a licence under this Act by an insurer incorporated after the 1st day of January, 1925 under any general or special Act of Ontario, there shall be submitted to the Superintendent a sworn statement setting forth the several sums of money paid in connection with the incorporation and organization of the insurer, and such statement shall, in addition, include a list of all unpaid liabilities, if any, in connection with or arising out of the incorporation and organization.

To what  
limited

(2) Until the licence is granted, no payments on account of expenses of incorporation and organization shall be made out of the moneys paid in by shareholders, except reasonable sums for the payment of clerical assistance, legal services, office rental, advertising, stationery, postage and expense of travel, if any. R.S.O. 1960, c. 190, s. 32 (1, 2).

Conditions  
precedent to  
issue of  
licence  
R.S.O. 1970,  
c. 89

(3) The Minister shall not issue the licence until he is satisfied that all the requirements of this Act and of *The Corporations Act* as to the subscriptions for shares in the capital of the insurer, the payment of money by shareholders on account of their subscriptions, the election of directors and other preliminaries have been

complied with, and unless he is satisfied that the expenses of incorporation and organization, including any commission payable in connection with subscriptions for shares in the capital of the insurer, are reasonable. 1970, c. 134, s. 5.

**32.** An insurer that has applied for a licence and has complied with this Act and *The Corporations Act* is entitled to the licence. R.S.O. 1960, c. 190, s. 33. Right to licence

**33.**—(1) Subject to section 331, the licence shall be in such form or forms for the different classes of insurers as may be from time to time determined by the Minister, and shall specify the business to be carried on by the insurer. R.S.O. 1960, c. 190, s. 34 (1). Form of licence

(2) The licence expires on the 30th day of June in each year, subject to renewal by the Superintendent on or before that date. Term of licence

(3) Any licence may be issued or renewed subject to such limitations or conditions as the Minister considers appropriate. Conditions of licence

(4) Notwithstanding subsections 2 and 3, the Minister may at any time and in respect of any licence of an insurer, Variation of licence

- (a) reduce the term for which the licence was issued or renewed;
- (b) impose any conditions or limitations relating to the carrying on of the insurer's business that he considers appropriate; or
- (c) vary, amend or revoke any condition or limitation to which the licence is then subject,

but the Minister may not exercise any power granted under this subsection until he has given the insurer notice of his intention to exercise such power and has afforded the insurer a reasonable opportunity to be heard with respect thereto. 1970, c. 134, s. 6.

**34.**—(1) Where written notice has been served on the Superintendent and upon proof of an undisputed claim arising from loss insured against in Ontario remaining unpaid for the space of sixty days after being due or of a disputed claim after final judgment in the regular course of law and tender of a legal, valid discharge being unpaid, the Minister may suspend or cancel the licence. R.S.O. 1960, c. 190, s. 35 (1); 1968, c. 58, s. 2. Failure to pay undisputed claim

(2) The licence may be revived and the insurer may again transact business if, within six months after notice to the Superintendent of the failure of the insurer to pay an undisputed claim or the amount of a final judgment as provided in this section, such undisputed claim or final judgment upon or against the insurer in Ontario is paid and satisfied. R.S.O. 1960, c. 190, s. 35 (2). Revival of licence

Failure to  
keep deposit  
unimpaired

**35.** When the insurer fails to keep unimpaired the deposit, if any, hereinafter required, the Minister may suspend or cancel the licence of the insurer. R.S.O. 1960, c. 190, s. 36.

Insufficiency  
of assets to  
be reported  
by Super-  
intendent

**36.**—(1) If the Superintendent, upon examination, or from annual statements, or upon other evidence, finds that the assets of an insurer are insufficient to justify its continuance in business or to provide proper security to persons effecting insurance with it in Ontario or that it has failed to comply with any provision of law or with its Act or instrument of incorporation or association, he shall so report to the Minister.

Suspension  
or cancel-  
lation

(2) If the Minister, after consideration of the report and after a reasonable time has been given to the insurer to be heard by him, and upon such further inquiry and investigation as he thinks proper to make, reports to the Lieutenant Governor in Council that he concurs in the report of the Superintendent, the Lieutenant Governor in Council may suspend or cancel the licence of the insurer.

Notice

(3) Notice of such suspension or cancellation shall be published in *The Ontario Gazette* and elsewhere as the Minister directs and thereafter any person transacting business on behalf of the insurer except for winding-up purposes is guilty of an offence.

Limited or  
conditional  
licence

(4) Where the Superintendent has reported as provided in subsection 1, the Minister or the Lieutenant Governor in Council may direct the issue of such modified, limited or conditional licence as is considered necessary for the protection of persons in Ontario who have effected or effect contracts of insurance with the insurer.

Application  
to licensees  
of any  
government  
in Canada

(5) Upon the suspension or cancellation of the licence of an insurer by any government in Canada, the Superintendent may suspend or cancel the licence of such insurer under this Act. R.S.O. 1960, c. 190, s. 37.

Assets  
not  
accounted  
for

**37.**—(1) Where it comes to the attention of the Superintendent that an insurer incorporated or organized under the laws of Ontario may not be able to account satisfactorily for any assets that appear on its books and, upon investigation, the Superintendent is satisfied that any such assets cannot be satisfactorily accounted for and that the circumstances so warrant, he may immediately take possession and control of the assets of such insurer and maintain such control on his own initiative for a period of seven days and, with the concurrence of the Minister, for any longer period that the Minister may order for the purpose of his report under subsection 1 of section 38.

Release of  
assets

(2) The Superintendent may release any assets under his possession and control that he considers advisable for the purposes of the insurer. 1970, c. 134, s. 7, *part.*

**38.**—(1) Where the Superintendent is of the opinion that the assets of an insurer incorporated or organized under the laws of Ontario are not sufficient to justify its continuance in business or to provide for its obligations under its policies he shall so report to the Minister.

Report to  
Minister

(2) Where the Minister, after full consideration of the matter and after a reasonable time has been given to the insurer to be heard by him, and upon such further inquiry or investigation as he sees fit to make, agrees with the opinion of the Superintendent under subsection 1, the Minister may do one or both of the following,

Remedial  
powers  
of the  
Minister

- (a) make the insurer's licence subject to such limitations or conditions as he considers appropriate;
- (b) prescribe a time within which the insurer shall make good any deficiency of assets.

(3) If the insurer fails to make good any deficiency of assets within the time that has been prescribed under clause *b* of subsection 2, or any extension thereof subsequently given by the Minister, the Minister shall submit the report of the Superintendent to the Lieutenant Governor in Council and the Lieutenant Governor in Council, if he agrees with the report, may order the Superintendent to take possession and control of the assets of the insurer and the Superintendent shall deliver a copy of the order to an officer of the insurer.

Subsequent  
action

(4) For the purposes of this section, the Minister may appoint such persons as he considers necessary to value and appraise the assets and liabilities of the insurer and report upon its condition and its ability, or otherwise, to meet its liabilities. 1970, c. 134, s. 7, *part*.

Appointment  
of  
appraisers

**39.**—(1) If so ordered by the Lieutenant Governor in Council under section 38, the Superintendent shall take possession and control of the assets of the insurer and shall thereafter conduct its business and take such steps as in his opinion should be taken toward its rehabilitation, and for such purposes the Superintendent has all the powers of the board of directors of the insurer, and, without limiting the generality of the foregoing, the Superintendent may,

Power of  
Superinten-  
dent  
upon taking  
control

- (a) exclude the directors, officers, servants and agents of the insurer from the premises, property and business of the insurer; and
- (b) carry on, manage and conduct the operations of the insurer and in the name of the insurer preserve, maintain, realize, dispose of and add to the property of the insurer, receive the incomes and revenues of the insurer and exercise all the powers of the insurer.



Application  
to court

R.S.O. 1970,  
c. 89

(2) While the Superintendent has possession and control of the assets of an insurer under this section, the Minister may direct the Superintendent to apply to the court for an order for the winding up of the insurer under Part VII of *The Corporations Act*.

Appointment  
of managers

(3) Where the Superintendent is in possession and control of the assets of an insurer and is conducting its business, he may appoint one or more persons to manage and operate the business of the insurer and,

- (a) each person so appointed is a representative of the Superintendent; and
- (b) the remuneration of any such person, other than an employee of the office of the Superintendent, shall be fixed by the Minister.

Relinquish-  
ing control

(4) Whenever the Minister believes that an insurer whose assets are in the possession and control of the Superintendent meets all the requirements of this Act and that it is otherwise proper for the insurer to resume possession and control of its assets and the conduct of its business, the Minister may, in writing, direct the Superintendent to relinquish to the insurer the possession and control of its assets, and from and after the date specified in such direction the powers of the Superintendent under this section cease.

Where  
rehabilita-  
tion  
efforts futile

(5) If the Minister, on the report of the Superintendent, considers that further efforts to rehabilitate an insurer whose assets are in the possession and control of the Superintendent would be futile, he may, in writing, direct the Superintendent to relinquish to the insurer the possession and control of its assets, and from and after the date specified in such direction the powers of the Superintendent under this section cease.

Expenses of  
proceedings

(6) The expenses of the Superintendent incurred in rehabilitation proceedings under this section and sections 37 and 38 shall be paid by all insurers licensed under this Act to carry on business of the same class or classes as the insurer who is the subject of the proceedings, and the share of each shall be the proportion of the expenses that the net premium income received from the insurer's policyholders in Ontario in its last preceding fiscal year bears to the total net premium income received from the policyholders in Ontario by all insurers of that class in their respective last preceding fiscal years.

Advisory  
committee

(7) The insurers required to bear the said expenses of the Superintendent may appoint a committee of not more than six members to advise the Superintendent in respect of all matters pertinent to the rehabilitation of the insurer whose assets are in the possession and control of the Superintendent. 1970, c. 134, s. 7, *part*.

**40.**—(1) Notwithstanding section 39, an insurer may appeal Appeal to a judge of the Court of Appeal from any order made by the Lieutenant Governor in Council under section 38 within thirty days after the delivery of a copy of the order to an officer of the insurer, and the practice and procedure in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action.

(2) An order of the Lieutenant Governor in Council under Stay section 38 shall take effect immediately, but where there is an appeal, a judge of the Court of Appeal may grant a stay until any appeal is disposed of.

(3) The Minister shall certify to the Registrar of the Supreme Material on appeal Court,

- (a) the decision of the Lieutenant Governor in Council;
- (b) the reports of the Superintendent to the Minister or the Lieutenant Governor in Council;
- (c) the record of any hearing; and
- (d) all written submissions by the appellant to the Superintendent, the Minister or the Lieutenant Governor in Council.

(4) The Minister is entitled to be heard, by counsel or other- Representa-  
tion wise, upon the argument of an appeal under this section.

(5) Where an appeal is taken under this section, the judge may Order by order direct the Superintendent to take such action as the judge considers proper or refrain from taking any action specified in the order and the Superintendent shall act accordingly.

(6) Notwithstanding the determination of the appeal under Further  
decision this section, the Minister and the Lieutenant Governor in Council have power to make any further reports and orders on new material or where there is a material change in the circumstances, and any such further order is subject to appeal under this section. 1970, c. 134, s. 7, *part, amended*.

**41.** Where the licence of an insurer is suspended or cancelled Revival of  
licence under this Act, it may be revived if the insurer makes good the deposit, or the deficiency, as the case may be, to the satisfaction of the Minister. R.S.O. 1960, c. 190, s. 38.

**42.** It is the duty of the Superintendent to report to the Report on  
contraven-  
tion of Act Minister any contravention of this Act by any insurer licensed thereunder, and thereupon the Minister may, in his discretion, suspend or cancel or refuse to renew the insurer's licence. R.S.O. 1960, c. 190, s. 39.

## DEPOSITS

Meaning of  
"insurer" in  
sections  
44 to 76

**43.**—(1) Subject to subsections 2, 3 and 4, "insurer" in sections 44 to 76 shall be deemed to include only joint stock insurance companies, cash-mutual insurance corporations, insurance companies mentioned in paragraph 6 of subsection 1 of section 23, insurers that undertake life insurance except fraternal societies, and underwriters or syndicates of underwriters operating on the plan known as Lloyds.

Application  
to Canada  
registrants

(2) Sections 44 to 48 do not apply to an insurer maintaining a reciprocal deposit with the government of another province under sections 71 to 76 or expressly exempted by order of the Lieutenant Governor in Council.

Application  
of ss. 44  
to 76

(3) Sections 44 to 76 do not apply to an insurer in respect of its business of marine insurance.

Application  
to Lloyds

(4) Sections 44 to 76 do not apply to an underwriter or syndicate of underwriters that is a member of the society known as Lloyds, incorporated by the Imperial Statute, *Lloyds Act, 1871*.

Interpre-  
tation

(5) In sections 44 to 76, "approved securities" means securities of or guaranteed by Canada or by any province of Canada, securities of an incorporated municipality of Canada, and such other securities as are authorized for the investment of trust funds under the law of the province in which they are offered for deposit and approved by the superintendent of insurance of the provinces of Canada in which the insurer is carrying on business. R.S.O. 1960, c. 190, s. 40.

Amount of  
deposit

**44.**—(1) Every insurer carrying on the business of insurance in Ontario shall, before receiving a licence under this Act, deposit approved securities with the Minister in the following amounts:

1. Where the insurer undertakes life insurance—\$50,000.
2. Where the insurer undertakes any one or more classes of insurance other than life,
  - i. in Ontario only—\$25,000.
  - ii. in Ontario and elsewhere—\$50,000. R.S.O. 1960, c. 190, s. 41 (1).

Increase  
in amount  
of deposit

(2) The Superintendent may require the deposit referred to in subsection 1 to be increased, either before or after granting the licence, to such amount as he considers necessary and for this purpose the Minister may require a reinsurer that reinsures all or part of the insurer's business to deposit balances owing to the insurer with the Minister. R.S.O. 1960, c. 190, s. 41 (2); 1968, c. 58, s. 3.

Excess  
deposit

(3) An insurer may voluntarily make a deposit in excess of the amount prescribed by this section, but no part of a voluntary

deposit shall be withdrawn without the sanction of the Minister. R.S.O. 1960, c. 190, s. 41 (3).

**45.**—(1) The value of such securities shall be estimated at their market value, not exceeding par, at the time they are deposited. Value at which securities received

(2) If any other than approved securities are offered as a deposit, the Minister may accept them on such valuation and on such conditions as he considers proper. Other securities

(3) If the market value of any securities that have been deposited by an insurer declines below that at which they were deposited, the Minister may notify the insurer to make such further deposit as will ensure the accepted value of all the securities deposited by the insurer being equal to the amount that is required by this Act to be deposited. Further deposit if below market value

(4) On failure by the insurer to make such further deposit within sixty days after being called upon so to do, the Minister may suspend or cancel the licence of the insurer. Failure to make further deposit

(5) The property in any stock, bonds or debentures deposited with the Minister under this Act or any predecessor thereof is vested in the Minister by virtue of his office without any formal transfer while such stock, bonds or debentures form the whole or any part of the deposit required by this Act. Title to securities

(6) So long as the conditions of this Act are satisfied and no notice of any final judgment against the insurer or order for its winding up or for the distribution of its assets or for administration of its deposit is given to the Minister, the insurer is entitled to receive the interest upon the securities forming the deposit. R.S.O. 1960, c. 190, s. 42. Interest upon deposits

**46.** Where an insurer desires to substitute other approved securities for securities deposited, the Minister may permit the substitution to be made. R.S.O. 1960, c. 190, s. 43. Substitution of securities

**47.**—(1) Where it is made to appear that an insurer, having made a deposit with the Minister, has made a deposit with any other government in Canada, the insurer is entitled, with the sanction of the Lieutenant Governor in Council, to withdraw the deposit with the Minister. Withdrawal of deposit in certain cases

(2) If at any time it appears that an insurer has on deposit with the Minister under this Act a sum in excess of the prescribed amount, the Minister, upon being satisfied that the interest of persons effecting contracts of insurance with the insurer in Ontario will not be prejudiced thereby, and upon giving such notice in *The Ontario Gazette* and taking such other precautions as he considers expedient, may authorize the withdrawal of the amount of such excess or such portion thereof as he considers Withdrawal of excess deposit



advisable, but the Minister may authorize such withdrawal without giving notice. R.S.O. 1960, c. 190, s. 44.

Return of  
deposit on  
ceasing to do  
business

**48.**—(1) An insurer that has ceased to transact business in Ontario and desires to obtain a return of its deposit may give written notice to that effect to the Superintendent, and shall publish in *The Ontario Gazette* a notice that it has applied to the Lieutenant Governor in Council for the return of its deposit, calling upon all claimants, contingent or actual, who object to the return to file their objections with the Superintendent on or before a day named in the notice, which shall not be less than three months after the first publication of it.

Filing list of  
outstanding  
contracts

(2) Upon giving the notice to the Superintendent, the insurer shall file with him a list of all its outstanding contracts of insurance, including contracts in respect of which claims have accrued.

Return of  
deposit on  
proof of  
discharge of  
contracts

(3) After the day named in the notice, if the Minister is satisfied that the insurer has obtained a discharge of all such outstanding contracts, the Lieutenant Governor in Council may direct that the deposit be returned.

Return of  
part of  
deposit

(4) If the Minister is not satisfied that all such contracts have been discharged, the Lieutenant Governor in Council may direct that a sufficient amount be retained to meet the contracts unprovided for and that the remainder of the deposit be returned, and thereafter, from time to time as such contracts lapse or proof is adduced that they have been satisfied, further return of the deposit may be directed by the Lieutenant Governor in Council. R.S.O. 1960, c. 190, s. 45.

Interpre-  
tation

**49.** In sections 50 to 76,

1. “insured person” means a person who enters into a subsisting contract of insurance with an insurer and includes,
  - (a) a person insured by a contract whether named or not; and
  - (b) a person to whom or for whose benefit all or part of the proceeds of a contract of insurance is payable; and
  - (c) a person entitled to have insurance money applied toward satisfaction of his judgment in accordance with section 226;
2. “loss” includes the happening of an event or contingency by reason of which a person becomes entitled to a payment under a contract of insurance of money other than a refund of unearned premiums;

3. "Ontario contract" means a subsisting contract of insurance that,
- (a) has for its subject,
    - (i) property that at the time of the making of the contract is in Ontario or is in transit to or from Ontario, or
    - (ii) the life, safety, fidelity or insurable interest of a person who at the time of the making of the contract is resident in Ontario or of an incorporated company that has its head office in Ontario; or
  - (b) makes provision for payment thereunder primarily to a resident of Ontario or to an incorporated company that has its head office in Ontario;
4. "reciprocal deposit" means a deposit of an insurer held pursuant to section 72 or 73;
5. "reciprocating province" means a province that has been declared to be a reciprocating province under paragraph 1 of subsection 1 of section 72 or subsection 1 of section 73 with respect to the deposit of a particular insurer. R.S.O. 1960, c. 190, s. 46.

**50.**—(1) Notwithstanding anything hereinafter contained but subject to subsection 2, at any time before the granting of an order for administration of a deposit and upon the recommendation of the Superintendent certifying that such action is necessary or desirable for the protection of policyholders entitled to share in the proceeds of the deposit, the Minister may use all or any part of the deposit for the purpose of reinsuring all or any part of the Ontario contracts.

Deposit may be used to reinsure Ontario contracts

(2) A reciprocal deposit may be used for purposes of reinsurance in the manner and to the extent agreed upon by the superintendents of insurance of the reciprocating provinces and not otherwise. R.S.O. 1960, c. 190, s. 47.

Consent required in case of reciprocal deposit

**51.**—(1) The deposit made by an insurer under this Act is subject to administration in the manner hereinafter provided.

Administration of deposit

(2) Subject to sections 72 and 73, the deposit shall be held and administered for the benefit of all insured persons under Ontario contracts and they are entitled to share in the proceeds of the deposit.

Persons for whom deposit administered

(3) An insured person under an Ontario contract is entitled to share in the proceeds of the deposit in respect of,

Claims entitling insured to share in deposit

- (a) a claim for a loss that is covered by the contract and that occurred before the termination date fixed under section 56 of this Act or section 250 of *The Corporations Act*; or

R.S.O. 1970, c. 89

- (b) a claim for refund of unearned premiums, except in the case of life insurance; or
- (c) a claim for payment of the legal reserve in respect of the contract in the case of life insurance; or
- (d) claims under both clauses *a* and *b*. R.S.O. 1960, c. 190, s. 48.

Application  
for admin-  
istration of  
deposit

**52.**—(1) An application for administration of a deposit shall be made by originating notice of motion to a judge of the Supreme Court.

Where  
application  
to be made

- (2) The application shall be made in the county or district,
  - (a) in which the head office of the insurer is situate; or
  - (b) in which the chief office of the insurer in Ontario is situate if its head office is out of Ontario. R.S.O. 1960, c. 190, s. 49.

Application  
by Super-  
intendent

**53.**—(1) With the approval of the Minister, the Superintendent may make application for administration at any time when, in his opinion, it is necessary or desirable for the protection of the insured person entitled to share in the proceeds of the deposit.

Idem

(2) In the case of a reciprocal deposit held in Ontario, the superintendent of insurance of a reciprocating province may make application for administration of the deposit.

Application  
by insured  
persons

(3) An insured person entitled to share in the proceeds of a deposit may make application for administration of the deposit upon producing evidence,

- (a) that he has served the Superintendent with a notice in writing of his intention to make application if the Superintendent or the superintendent of insurance of a reciprocating province does not apply; and
- (b) that sixty days have elapsed since the service of the notice and that no application for administration of the deposit has been made.

Duty of  
Superinten-  
dent in case  
of reciprocal  
deposit

(4) In the case of a reciprocal deposit, if the Superintendent is served with a notice as provided in subsection 3, he shall forthwith notify the superintendent of insurance of each reciprocating province that he has been so served. R.S.O. 1960, c. 190, s. 50.

Service of  
notice of  
motion

**54.**—(1) The applicant for administration of the deposit shall serve the originating notice of motion at least ten days before the date specified in the notice for the making of the application,

- (a) upon the insurer or, where the insurer is in liquidation, upon the liquidator of the insurer; and
- (b) upon the Superintendent; and

- (c) in the case of a reciprocal deposit, upon the superintendent of insurance of each reciprocating province.

(2) An applicant for administration is entitled to an order for administration upon proof, Order for administration

- (a) that the licence of the insurer has been cancelled, and that its assets are insufficient to discharge its outstanding liabilities; or
- (b) that an order has been made for the winding up of the insurer; or
- (c) that the insurer has failed to pay,
  - (i) an undisputed claim for sixty days after it has been admitted, or
  - (ii) a disputed claim after final judgment and tender of a valid discharge,

if the claim arose under a contract of insurance in respect of which the deposit is subject to administration. R.S.O. 1960, c. 190, s. 51.

**55.**—(1) Upon granting an order for administration, the court shall appoint a receiver to administer the deposit. Receiver, appointment

(2) Where a provisional liquidator or a liquidator has been appointed under this Act or *The Corporations Act* or a liquidator has been appointed under the *Winding-up Act* (Canada) to wind up a company that has made a deposit under this Act, the court may appoint the provisional liquidator or the liquidator as the receiver to administer the deposit. Provisional liquidator, appointment  
R.S.O. 1970, c. 89  
R.S.C. 1952, c. 296

(3) Thereupon the provisional liquidator or the liquidator shall administer the deposit for the benefit of the insured persons entitled to share in the proceeds thereof in accordance with the provisions of and the priorities set out in this Act. R.S.O. 1960, c. 190, s. 52. Deposit, how to be administered

**56.**—(1) Where a termination date has not been fixed by a provisional liquidator or a liquidator under section 250 of *The Corporations Act*, forthwith after his appointment, the receiver shall fix a termination date for the subsisting contracts of insurance of the insurer, and on and after that date coverage and protection under the Ontario contracts cease and determine and the insurer is not liable under any such contract for a loss that occurs after that date. Termination date

(2) Where a receiver administering a reciprocal deposit held in another province for the benefit of the insured persons under Ontario contracts fixes a termination date for the subsisting contracts of insurance of the insurer, on and after that date coverage and protection under the Ontario contracts cease and the insurer is not liable under any such contract for a loss that occurs after that date. Termination of Ontario contracts on date fixed by receiver in another province



When termination date to be fixed (3) The termination date shall not be less than twenty and not more than forty-five days after the date upon which the receiver was appointed.

Notice of termination date (4) The receiver shall forthwith give notice in writing of the termination date to the Superintendent and, in the case of a reciprocal deposit, to the superintendent of insurance of each reciprocating province.

Publication of notice (5) The receiver shall forthwith publish notice of the termination date in *The Ontario Gazette* and in the official gazette of each reciprocating province and in such newspapers circulating in those provinces as the receiver in his opinion considers advisable in order to give reasonable notice of the termination date. R.S.O. 1960, c. 190, s. 53.

Notice to insured persons under Ontario contracts **57.**—(1) The Superintendent, upon receiving notice of a termination date fixed by the receiver administering the deposit of an insurer, shall forthwith take such action as he considers advisable in the interests of the insured persons under Ontario contracts to give notice of that date to them as soon as is reasonably possible.

List of insured persons (2) Without restricting the generality of subsection 1, the Superintendent may forthwith require each agent of the insurer in Ontario to forward to him a list showing the name and address of each person who has entered into a contract of insurance with the insurer of whom the agent has a record.

Notice to persons on list (3) On receipt of each list forwarded by an agent, the Superintendent may send by ordinary mail to each person whose name appears on the list a notice containing,

- (a) the termination date fixed by the receiver;
- (b) the name and address of the receiver to whom particulars of claims for loss and claims for refund of unearned premiums should be submitted; and
- (c) such other information as the Superintendent considers advisable.

Publication of contents of notice (4) The Superintendent in his discretion may publish, broadcast or otherwise communicate or distribute the information contained in the notice, either generally or in any particular area or case, in such manner and by such means as he considers best suited to convey the information to the insured persons as soon as is reasonably possible having regard to all the circumstances. R.S.O. 1960, c. 190, s. 54.

Duty of receiver on appointment **58.** Forthwith after his appointment, the receiver shall,

- (a) call either upon the insurer or its agent or liquidator to furnish a list of all insured persons who are entitled to share in the proceeds of the deposit; and

- (b) call upon all insured persons who are entitled to share in the proceeds of the deposit to file their claims if they have not already done so. R.S.O. 1960, c. 190, s. 55.

**59.** The court, by the order appointing a receiver or by any subsequent order, may authorize the receiver to exercise, in respect of the accounts of the insurer, all or any of the powers that the Master of the Supreme Court would have if he were taking an account of the claims against the deposit, and every receiver so authorized has those powers as well as all other powers enjoyed by a receiver appointed under an order of the court. R.S.O. 1960, c. 190, s. 56.

Powers of Master of Supreme Court exercisable by receiver

**60.—**(1) The receiver may apply to the court from time to time for an order authorizing him,

Application by receiver for order for sale of securities

- (a) to sell or realize upon all or part of the securities comprised in the deposit of the insurer; and
- (b) to pay from the proceeds thereof the costs of the administration of the deposit, including salaries of office staff, office expenses, the fee for the services of the receiver, fees and disbursements to adjusters and solicitors, and such other costs and expenses as the court considers proper.

(2) The court may require the receiver to give such notice of the application in such manner as the court directs.

Notice of application

(3) After hearing the application, the court may make the order and may require the receiver to comply with such conditions as the court directs. R.S.O. 1960, c. 190, s. 57.

Making of order

**61.** The proceeds of the deposit are payable,

- (a) first, in payment of the receiver and of all costs and expenses incurred by him in the administration of the deposit and in payment of the remuneration, costs and expenses of the provisional liquidator as ordered by the Minister under section 246 of *The Corporations Act*;
- (b) second, in payment of the insured persons who are entitled to share in the proceeds of the deposit in accordance with the priorities set out in section 62. R.S.O. 1960, c. 190, s. 58.

Priorities in payment of proceeds of deposit

R.S.O. 1970, c. 89

**62.—**(1) Except in the case of life insurance, each insured person who claims in respect of a loss covered by the contract that occurred before the termination date fixed under section 56 of this Act or section 250 of *The Corporations Act* is entitled to receive payment of his approved or settled claim in full in priority to the insured persons who claim in respect of refunds of unearned premiums.

Priority of loss claims

Priority  
of unearned  
premium  
claims

(2) Subject to subsection 1, an insured person who claims in respect of a refund of unearned premiums may claim such part of the premium paid as is proportionate to the period of his contract unexpired,

(a) at the termination date fixed by the receiver under section 56 or fixed by the provisional liquidator or the liquidator under section 250 of *The Corporations Act*; or

(b) at the date the insured person cancelled the contract,

whichever is the earlier date.

Priority  
of life  
insurance  
claims

R.S.O. 1970,  
c. 89

(3) In the case of life insurance, each insured person who has a claim for a loss covered by the contract that occurred before the termination date fixed under section 56 of this Act or section 250 of *The Corporations Act* ranks in the distribution of the proceeds of the deposit for the approved or settled amount of the claim *pari passu* with insured persons under unmatured life insurance contracts.

Claim under  
unmatured  
life policy

(4) An insured person under an unmatured life insurance contract is entitled to the full amount of the legal reserve in respect of his contract determined by the receiver according to the valuation thereof approved by the Superintendent under this Act. R.S.O. 1960, c. 190, s. 59.

Action of  
receiver  
on receipt  
of claims

**63.**—(1) Where an insured person has filed a claim for a loss covered by the contract that occurred before the termination date fixed under section 56 of this Act or section 250 of *The Corporations Act*, the receiver shall inquire into the claim and,

(a) may approve the claim, if a final judgment has been obtained against the insurer in respect thereof; or

(b) may approve the claim, if it has been adjusted or settled by the insurer or by the receiver at an amount that in his opinion the claimant is reasonably entitled to receive; or

(c) may refuse to approve the claim or the amount thereof.

Appeal from  
receiver

(2) An appeal lies to the Supreme Court from any decision of the receiver, if taken within thirty days from the date on which the person appealing received notice of the decision.

Manner of  
appeal

(3) Notice of the appeal shall be served on the receiver, and the court may summarily determine the matter or may direct an issue to be tried or may make such other order as the court considers proper. R.S.O. 1960, c. 190, s. 60, *amended*.

List of  
persons  
entitled to  
share in  
deposit

**64.**—(1) The receiver shall prepare a list showing the names of the persons who appear by the books and records of the insurer or otherwise to be entitled to share in the proceeds of the deposit.

(2) The receiver shall prepare and attach to the list a schedule of approved claims for losses of persons whose names appear on the list showing in respect of each approved claim, Schedule of approved claims for losses

- (a) the name and address of the claimant;
- (b) the particulars of the contract of insurance upon which the claim is based;
- (c) whether the claim was reduced to judgment or was adjusted or settled; and
- (d) the amount to which the claimant is entitled.

(3) The receiver shall prepare and attach to the list a schedule of unapproved claims for losses of persons whose names appear on the list showing in respect of each claim, Schedule of unapproved claims for losses

- (a) the name and address of the claimant;
- (b) the particulars of the contract of insurance upon which the claim is based;
- (c) the amount for which the claim is made or the amount estimated by the receiver as the probable maximum amount that will be payable under the contract in respect of that loss.

(4) Except in the case of life insurance, the receiver shall prepare and attach to the list a schedule of unearned premiums refundable showing in respect of each person whose name appears on the list and who is entitled to a refund, Schedule of unearned premiums

- (a) his name and address;
- (b) the particulars of the contract of insurance in respect of which the unearned premium is refundable;
- (c) the date on which the policy was terminated either by the receiver under section 56 or by the provisional liquidator or the liquidator under section 250 of *The Corporations Act*, or was cancelled by the insured person; and R.S.O. 1970, c. 89
- (d) the amount of the unearned premium as calculated by the receiver under subsection 2 of section 62.

(5) In the case of life insurance, the receiver shall prepare and attach to the list a schedule of contract legal reserves showing in respect of each person whose name appears on the list and who is entitled to claim for the legal reserve in respect of his contract, Schedule of legal reserves on life policies

- (a) his name and address;
- (b) the particulars of the contract of insurance in respect of which the legal reserve is payable; and
- (c) the amount of the legal reserve calculated by the receiver under subsection 4 of section 62. R.S.O. 1960, c. 190, s. 61.



Application  
for order  
for payment  
on account  
of claims

**65.**—(1) Upon completion of the schedules and after having paid or provided reasonable reserves out of the deposit to pay the amounts payable under clause *a* of section 61, the receiver may apply to the court for an order authorizing the payment of such aggregate sum as may be fixed by the court on account of the amounts payable under clause *b* of section 61.

Provision  
for payment  
of claims

(2) Except in the case of life insurance, the receiver shall divide the sum mentioned in subsection 1 so as to provide for payment of the claims for losses in full or, if the sum is inadequate, *pro rata* on account of,

- (a) the approved claims for losses set out in the schedule of approved claims for losses; and
- (b) the unapproved claims for losses set out in the schedule of unapproved claims for losses,

and shall distribute the part referred to in clause *a* at such time or times as the receiver may determine to the persons entitled thereto and shall retain the part referred to in clause *b* for distribution from time to time as the unapproved claims are approved.

Payment of  
unearned  
premiums

(3) Except in the case of life insurance, if there appears to be a surplus remaining after the receiver has paid or retained a sum that, in his opinion, is reasonably adequate to pay in full all claims for losses referred to in subsection 2, the receiver shall divide the surplus so as to provide for payment of all unearned premiums in full or, if it is inadequate, among the persons entitled to a refund of unearned premiums in proportion to the amounts payable as set out in the schedule of unearned premiums refundable. R.S.O. 1960, c. 190, s. 62 (1-3).

Payment of  
claims in  
case of life  
insurance

(4) In the case of life insurance, the receiver shall divide the sum fixed under subsection 1 so as to provide for payment of the following amounts in full or, if the sum is inadequate, *pro rata* on account of,

- (a) the approved claims for losses set out in the schedule of approved claims for losses;
- (b) the unapproved claims for losses set out in the schedule of unapproved claims for losses;
- (c) the full amount of the legal reserve in respect of each unmaturing life insurance contract as set out in the schedule of contract legal reserves,

and shall distribute the parts referred to in clauses *a* and *c* at such time or times as the receiver may determine to the persons entitled thereto and shall retain the part referred to in clause *b* for distribution from time to time as the unapproved claims are approved. R.S.O. 1960, c. 190, s. 62 (4); 1968-69, c. 53, s. 2, *amended*.

**66.** If a claim in respect of a loss that occurred before the termination date is filed after the receiver has applied to the court under subsection 1 of section 65 and before the final order of the court discharging the receiver, the claimant is entitled to share in the distribution of the moneys remaining in the hands of the receiver upon proof of his claim and upon such terms and conditions as the court may direct. R.S.O. 1960, c. 190, s. 63.

Payment of  
delayed  
claims

**67.** The receiver administering a deposit may apply to the court at any time on summary application for directions or advice pertaining to any matter arising in the administration of the deposit. R.S.O. 1960, c. 190, s. 64.

Application  
to court for  
direction

**68.** Upon the completion of the distribution of the proceeds of the deposit, the receiver shall submit his final accounts to the court and the court, on the passing thereof, may make an order approving the accounts and discharging the receiver. R.S.O. 1960, c. 190, s. 65.

Submission  
by receiver  
of final  
accounts

**69.** If a claim is made after the completion of the distribution of the proceeds of the deposit and the discharge of the receiver or if there is a claim against the insurer by an insured person not fully paid by the distribution of the proceeds of the deposit, the claimant is not barred from any recourse he may have against the insurer, and his claim is a first lien or charge on the assets of the insurer in winding up as provided in subsection 2 of section 248 of *The Corporations Act*. R.S.O. 1960, c. 190, s. 66.

Claims re-  
maining  
unpaid after  
distribution  
of deposit

R.S.O. 1970,  
c. 89

**70.** A person who holds security for his claim under a contract of insurance, or who is entitled to share in the administration of a fund deposited with the government of any other province for the protection of persons resident in that province, is only entitled to share in the administration of the Ontario deposit if he abandons such special security and releases his claim upon any other government deposit. R.S.O. 1960, c. 190, s. 67.

Certain  
persons  
not entitled  
to share in  
proceeds of  
deposit

**71.**—(1) In sections 72 and 73, the expression “contracts”, in relation to any other province of Canada, has the meaning assigned to it by the Act of that province under which insurers are licensed to carry on the business of insurance.

Interpre-  
tation

(2) This section and sections 72 and 73 are applicable notwithstanding that the insurer is or may become licensed in one province for classes of insurance different from those for which it is or may become licensed in another province.

Application  
of ss. 72, 73

(3) Sections 72 and 73 prevail over any other provisions of this Act to the extent that they are inconsistent with such other provisions. R.S.O. 1960, c. 190, s. 68.

Conflict

Reciprocal  
deposits

**72.**—(1) Where an insurer has its head office for Canada in Ontario and makes a deposit under this Act for the purposes of this section by virtue whereof the insurer will not be required to make a deposit in another province in which it is or may become licensed to undertake insurance, the following provisions are in effect:

Order pre-  
scribing  
amount of  
deposit and  
recipro-  
cating  
provinces

1. The amount of the deposit to be made and maintained by the insurer shall be fixed by order of the Lieutenant Governor in Council and the order shall declare what provinces are reciprocating provinces with respect to that insurer's deposit.

Deposit as  
security for  
contracts

2. The deposit shall be held and administered as security *pari passu* for the Ontario contracts of the insurer and for its contracts in any reciprocating province.

Certificate  
of Superin-  
tendent as  
to deposit

3. The Minister shall, upon the request of the official who issues or proposes to issue a licence to the insurer in another province, certify under his hand that the deposit is held in the manner provided by paragraph 2, and the Superintendent shall forward the certificate to that official and a copy to the superintendent of insurance in each province.

Further  
deposit

4. Where, with respect to the outstanding contracts of the insurer, it appears to the Superintendent from the annual statement under section 79 or any examination of the affairs of the insurer that a further deposit for the purposes of this section is necessary, or where it appears to the superintendent of insurance for another province in which the insurer is licensed from any annual report made to him by the insurer or any examination of the affairs of the insurer that a further deposit for the purposes of this section is necessary and such superintendent requests the Superintendent to obtain a further deposit, the insurer shall forthwith deposit such further sum as the Lieutenant Governor in Council fixes.

Transfer of  
deposit to  
Minister of  
Finance

5. If the insurer obtains a certificate of registration from the Government of Canada extending to this or another province and as a registrant makes a deposit under the *Canadian and British Insurance Companies Act* (Canada) or the *Foreign Insurance Companies Act* (Canada), the Minister may, on the request of the insurer, authorize the Treasurer of Ontario to deliver to the insurer or to transfer to the Minister of Finance for Canada all or any part of such deposit as the Minister thinks fit having regard to the extent of the certificate of registration, and the Superintendent shall forthwith give notice of the delivery or transfer to the superintendent of insurance of each reciprocating province.

R.S.C. 1952,  
cc. 31, 125

6. Where the licence of the insurer is suspended or cancelled under this Act, the Superintendent shall forthwith give notice to the superintendent of insurance in each province. Notice of suspension or cancellation of licence
7. Where the insurer ceases to carry on insurance business in Canada and its deposit may be withdrawn under this Act, the Superintendent shall notify the superintendent of insurance in each province, and all claims and liabilities arising in any such province shall be verified by the superintendent of insurance of that province and a statement thereof communicated to the Superintendent. Cessation of business in Canada
8. Where the insurer ceases to transact business in or its licence is suspended or cancelled in a reciprocating province and notice thereof is given to the Superintendent, the Minister and the Superintendent, upon the request of the superintendent in the reciprocating province, may take any action that could be taken if the insurer ceased to transact business in or its licence was suspended or cancelled in Ontario. Cessation of business in reciprocating province

(2) The insurer shall not change the location of its head office to another province without the consent of the Minister, but, where the Minister so consents, he may authorize the Superintendent to transfer the insurer's deposit to the minister responsible for the deposit in that province or to the insurer, as the minister in that province requests, and the Superintendent shall forthwith give notice of any change or transfer to the superintendent of insurance of each reciprocating province. R.S.O. 1960, c. 190, s. 69. Change of location of head office and transfer of deposit

**73.**—(1) Where an insurer has its head office for Canada in another province and there makes a deposit of such amount as is fixed by the proper authority in that province, and under the laws of that province the deposit is held as security *pari passu* for its Ontario contracts and its contracts in every reciprocating province, the Minister, upon receipt of a certified copy of an order of the lieutenant governor in council of the province in which the deposit is made fixing the amount of the deposit and declaring that Ontario is a reciprocating province with respect to that insurer's deposit, and upon receipt of the consent of the insurer to its deposit being so held, shall exempt the insurer from the provisions of this Act requiring it to make and maintain a deposit. Exemption of insurer with head office for Canada in another province

(2) Where the insurer ceases to transact business in or its licence is suspended or cancelled in Ontario, the Superintendent shall forthwith give notice thereof to the superintendent of insurance of the province in which the reciprocal deposit is held and to the superintendent of insurance of each other reciprocating province. Notice of ceasing to transact business



Notice to  
insured  
persons  
under  
Ontario  
contracts

(3) Where an order is made for the administration of a reciprocal deposit held in another province under subsection 1, the Superintendent, as soon as is reasonably possible after receipt of notice of the termination date fixed by the receiver, shall proceed pursuant to section 57 to give the notice required by that section to the insured persons under the Ontario contracts.

Transfer  
of deposit

(4) Where a licensed insurer is exempted under this section, the Minister shall transfer its deposit under this Act to the minister responsible for the deposit in the province in which the insurer has its head office or to the insurer, as that minister requests. R.S.O. 1960, c. 190, s. 70.

Agreement  
to use  
securities to  
reinsure

**74.** At any time before the granting of an order for the administration of a reciprocal deposit, the superintendent of insurance of each reciprocating province may enter into an agreement to use all or any part of the securities deposited for the purpose of reinsuring all or any part of the risks of the insurer outstanding in all or any of those provinces. R.S.O. 1960, c. 190, s. 71.

Application  
of ss. 71-73  
to other  
provinces

**75.**—(1) The Lieutenant Governor in Council may, on being satisfied that any other province has enacted provisions identical with or substantially the same as sections 71 to 73, order that those sections apply to that province.

Copy of  
order

(2) A copy of every order under subsection 1 shall be sent to the superintendent of insurance in each province. R.S.O. 1960, c. 190, s. 72.

Transfer of  
deposit from  
discontinuing  
insurer  
to continuing  
insurer

**76.**—(1) Where a licensed insurer, hereinafter called the continuing insurer, has, by purchase or otherwise, acquired the assets and assumed the liabilities in Ontario of another licensed insurer, hereinafter called the discontinuing insurer, or reinsured all the contracts of a discontinuing insurer outstanding in Ontario, the Lieutenant Governor in Council may, upon the application of the continuing insurer, and upon the report of the Superintendent, direct the transfer of the deposit held by the Minister under this Act in the name of the discontinuing insurer to the continuing insurer.

Effect of  
transfer

(2) In any such case, the deposit so transferred shall thereafter be treated and dealt with under this Act in the same manner as though it had been originally deposited by the continuing insurer. R.S.O. 1960, c. 190, s. 73.

#### RECORDS AND RETURNS

Report on  
share  
transfers

**77.** No transfers of shares of an insurer shall be entered in the book or books maintained for that purpose until thirty days after notice thereof has been deposited with the Superintendent if,

- (a) the transfer relates to 10 per cent or more of the issued shares of the insurer for the time being enjoying voting rights; or
- (b) the directors have reason to believe that the transfer would result in a majority of the issued shares of the insurer for the time being enjoying voting rights being beneficially owned by any one person. 1970, c. 134, s. 8.

**78.**—(1) Every licensed insurer that carries on in Ontario the business of automobile insurance, fire insurance, property damage insurance or sprinkler leakage insurance shall prepare and file, when required, with the Superintendent, or with such statistical agency as he may designate, such statistical return of the experience of such business as the Superintendent may require and in such form and manner and according to such system of classification as he may approve. 1964, c. 47, s. 6 (1). Statistical returns

(2) The Superintendent may require any agency so designated to compile the data so filed in such form as he may approve, and the expense of making the compilation shall be apportioned among the insurers whose data is compiled by such agency by the Superintendent who shall certify in writing the amount due from each insurer and it is payable by the insurer to such agency forthwith. R.S.O. 1960, c. 190, s. 75 (2). Compilation of data

(3) If at any time it appears to the Minister on the report of the Superintendent that the insurer's record of premium income and claims paid are not kept in such a manner as to show correctly the experience of the insurer for the purposes of the statistical return, the Minister may nominate a competent accountant to proceed under his direction to audit the books and records of the insurer and to give such instructions as will enable the officers of the insurer to keep the records correctly thereafter. Audit and direction where records not duly kept

(4) The expense of such an audit shall be borne by the insurer and shall not exceed \$15 per day and necessary travelling expenses of the accountant nominated, and the account shall, when certified and approved under the hand of the Superintendent, be paid by the insurer forthwith. Expenses of audit

(5) Any insurer that contravenes this section, and the principal officer in Ontario of any such insurer, are guilty of an offence. 1964, c. 47, s. 6 (2), *part, amended*. Offence

**79.**—(1) Subject to sections 319 and 323, every licensed insurer shall prepare annually and deliver to the Superintendent, on or before the last day of February of each year, a statement of the condition of affairs of the insurer as at the 31st day of December next preceding, which statement shall be in such form as may be prescribed by the Superintendent and shall exhibit the Annual statement

assets, liabilities, receipts and expenditures of the insurer for the calendar year ended on such date, and shall also exhibit particulars of the business done in Ontario during such year and such other information as is considered necessary from time to time by the Minister or Superintendent, and such statement shall be verified in a manner that may be prescribed by the Superintendent. R.S.O. 1960, c. 190, s. 76 (1); 1968, c. 58, s. 4, *amended*.

Modified  
statement  
for Canada  
licensees

(2) In the case of an insurer designated by the Lieutenant Governor in Council, the Superintendent may, in lieu of the annual statement required to be filed by all insurers under subsection 1, direct the preparation of a modified statement respecting the business of the insurer in Ontario only.

Who may  
verify  
statement

(3) In the case of a corporation, such statement shall be verified by the president, vice-president or managing director, or other director appointed for the purpose by the board of directors, and by the secretary or manager of the corporation.

Prompt  
reply to  
inquiries

(4) An insurer shall, when required by the Superintendent, make prompt and explicit answer in reply to any inquiry directed to the insurer by him in relation to the statement or in relation to the transactions of the insurer in Ontario. R.S.O. 1960, c. 190, s. 76 (2-4).

Unearned  
premiums  
a liability

(5) Subject to subsection 6, in the case of all classes of insurance, other than life insurance, and in the case of all insurers, the statement shall show as a liability of the insurer not less than 80 per cent of the actual portions of unearned premiums on all business in force on the 31st day of December then last past or not less than 80 per cent of 50 per cent of the premiums written in its policies and received in respect of contracts having one year or less to run and *pro rata* on those for longer periods. R.S.O. 1960, c. 190, s. 76 (5); 1962-63, c. 64, s. 2 (1); 1966, c. 71, s. 5.

Reserve  
liability  
on non-  
cancellable  
accident  
and sickness  
insurance

(6) In the case of non-cancellable accident and sickness insurance, the statement shall show as a liability of the insurer a reserve computed on such bases and in accordance with such methods as will place an adequate value on the liabilities thereunder, but in no case shall the value placed upon the benefits under any policy be less than the value placed upon the future premiums. 1962-63, c. 64, s. 2 (2).

Life  
insurers

(7) In the case of insurers transacting life insurance, the statement shall show as a liability the valuation of outstanding contracts of insurance according to the standard for valuation prescribed by section 83, or such higher standard as the insurer, with the approval of the Superintendent, adopts. R.S.O. 1960, c. 190, s. 76 (6); 1962-63, c. 64, s. 2 (3).

Certain  
agents' bal-  
ances, un-  
authorized  
securities,  
etc., must  
not show  
as assets

(8) The statement shall not show as assets the unpaid balances owing by agents or other insurers in respect of business written before the 1st day of October in the next preceding calendar year,



or bills receivable on account of the same, or unpaid capital or premium on subscribed shares of capital stock, or investment in office furnishings or equipment, nor shall such statements include as assets any investments not authorized by any special or general Act to which the insurer is subject.

(9) Every licensed insurer may, in its annual statement or in any valuation of its securities required to be made, value all of its securities having a fixed term and rate and not in default as to principal or interest according to the following rule: if purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made; but the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, and the Superintendent has full discretion in determining the method of calculating values according to the foregoing rule. R.S.O. 1960, c. 190, s. 76 (7, 8).

Valuation  
of securities

**80.** A statement purporting to show the financial condition of an insurer differing from the financial condition shown by the statement filed with the Superintendent, or a balance sheet or other statement in form differing from the form prescribed by the regulations, shall not be published or circulated, and every insurer publishing such a statement is guilty of an offence. R.S.O. 1960, c. 190, s. 77.

Published  
statements

**81.** Every person who represents orally or in writing that the issue of a licence to an insurer or the printing or publication of an annual statement in the report of the Superintendent or in any other publication of the Superintendent or any other circumstance of the supervision or regulation of the business of the insurer by law or the Superintendent is a warranty or guarantee of the financial standing of the insurer or of its ability to provide for the payment of its contracts at maturity is guilty of an offence. R.S.O. 1960, c. 190, s. 78; 1964, c. 47, s. 7.

Statements  
that finan-  
cial standing  
guaranteed  
by govern-  
ment pro-  
hibited

#### REAL ESTATE

**82.**—(1) A licensed insurer, and, subject to its constitution and rules, a licensed fraternal or mutual benefit society or any branch or lodge thereof, may acquire and hold absolutely for its own use and benefit such real estate or leaseholds,

Powers of  
insurer to  
hold real  
estate

- (a) as are necessary for the transaction of its business; and
- (b) as are *bona fide* mortgaged to it by way of security or are acquired by it by foreclosure or in satisfaction of a debt,

and may sell, mortgage, lease or otherwise dispose of the same, but real estate or leaseholds acquired by foreclosure or in satisfaction of a debt shall be sold or disposed of within seven years after they have been so acquired.



Additional  
real estate

(2) Except in the case of a fraternal or mutual benefit society or any branch or lodge thereof, a licensed insurer may,

- (a) acquire and hold real estate or leaseholds in addition to those provided for by subsections 1 and 6; and
- (b) acquire or construct and hold a building larger than is required for the transaction of its business, and may lease any part of the building not so required,

R.S.O. 1970,  
c. 280

upon complying with and subject to *The Mortmain and Charitable Uses Act*, if the insurer is subject thereto, in respect of the additional real estate or the part of the building not so required.

Powers of  
societies  
re office  
building

(3) A licensed fraternal or mutual benefit society or any branch or lodge thereof may, subject to its constitution or rules and when so authorized by the Lieutenant Governor in Council, acquire or construct and hold a building larger than is required for the transaction of its business, and may lease any part of the building not so required.

Forfeiture

(4) Any real estate or leaseholds acquired by foreclosure or in satisfaction of a debt that have been held by the insurer for a longer period than seven years without being disposed of shall, unless held pursuant to any other provision of this section, be forfeited to Her Majesty for the use of Ontario.

Idem

(5) No forfeiture under subsection 4 shall take effect until the expiration of at least six calendar months after notice in writing to the insurer by the Minister of the intention of Her Majesty to claim the forfeiture, but the insurer may, notwithstanding such notice, before the forfeiture is effected, sell or dispose of the property free from liability to forfeiture.

Investments  
in real  
estate

(6) A licensed insurer that has invested its funds in such real estate or leaseholds as are referred to in subsections 1, 2, 4 and 6 of section 383 may acquire and hold such property absolutely for its own use and benefit.

Rights  
under  
section are  
additional

(7) Except where otherwise provided, every right, power and authority granted by this section is in addition to any right, power and authority granted by a licence issued under *The Mortmain and Charitable Uses Act* or any other Act. 1962-63, c. 64, s. 3.

#### LIFE INSURANCE RESERVES

Valuation  
of contracts  
of insurance

**83.**—(1) The valuation of contracts of insurance issued by insurers incorporated and licensed under the law of Ontario to transact life insurance, except contracts of fraternal societies licensed under this Act, shall include a reserve for all unmatured obligations guaranteed under the terms of its policies dependent on life, disability, sickness, accident or any other contingency or on a term certain, and shall also include a reserve for profits ascertained and apportioned for future distribution. 1962-63, c. 64, s. 4, *part*.

(2) In computing the reserve for all unmatured obligations guaranteed under the terms of the policies dependent on life contingencies only, the valuation shall be made in accordance with the following prescriptions:

Methods of  
computation  
for life  
policies

1. The rate of interest assumed shall not exceed the rate prescribed in Schedule D, except that where, upon the application of a company and upon the recommendation of the Superintendent, the Lieutenant Governor in Council is satisfied that a higher rate is appropriate for a particular class of policy issued by the company, the Lieutenant Governor in Council may by order authorize the assumption of such higher rate of interest as the Lieutenant Governor in Council specifies in the order, and the Lieutenant Governor in Council may by order withdraw his authorization at any time and an order of the Lieutenant Governor in Council under this paragraph shall be deemed to be a regulation within the meaning of *The Regulations Act*.
2. The tables of mortality used shall be the tables prescribed in Schedule D, subject to any modification in the age that the company considers appropriate and necessary to secure the proper valuation of a particular class of policies and that has the effect of increasing the reserves, but, if it appears to a company that the reserves for a particular class of policies cannot be appropriately computed by any table of mortality prescribed by Schedule D or by any such table modified as aforesaid, the company shall apply to the Superintendent for approval of the table the company considers most appropriate for the computation, and the Superintendent may grant such approval and revoke it at any time.
3. The method of valuation shall be that specified in Schedule D or any adaptation thereof approved by the Superintendent, or any other method the company considers appropriate, but the method used shall be such that the reserve calculated in accordance therewith will not be less at any duration than the reserve computed in accordance with the valuation provisions of Schedule D, and the method used shall make adequate provision for the guaranteed values at the subsequent durations of the policy according to the rate of interest and the table of mortality used in the valuation.
4. The reserve in the first policy year need not in any event exceed the reserve computed in accordance with the rate of interest and table of mortality used in the valuation and the method of valuation as specified in Schedule D. 1962-63, c. 64, s. 4, *part*; 1968-69, c. 53, s. 3.

R.S.O. 1970,  
c. 410

Computation  
for other  
than life  
policies

(3) In computing the reserve for all unmatured obligations that are guaranteed under the terms of, or that arise out of policies dependent on, contingencies other than life contingencies, the bases and methods of valuation employed by the company shall be such as to place an adequate value on the liabilities thereunder and shall be such that the value of the benefits under every policy shall in no case be less than the value placed upon the future premiums.

Certificate  
of actuary

(4) There shall be included in the annual statement a certificate by the actuary of the company, or by the actuary responsible for the valuation if the company has no actuary, to the effect that the reserves shown in the valuation summary are not less than the reserves required by this section and, in addition, that in his opinion the reserves make a good and sufficient provision for all unmatured obligations of the company guaranteed under the terms of its policies.

Report on  
approved  
mortality  
tables

(5) Where the Superintendent approves of a table of mortality under subsection 2, he shall include in his annual report to the Minister information concerning the origin, characteristics of the table and the circumstances in which it may be used, and, when the Superintendent revokes any such approval, he shall include a statement as to the circumstances of the revocation.

Contracts  
must be  
self-  
supporting

(6) No insurer shall issue any policy that does not appear to be self-supporting upon reasonable assumptions as to interest, mortality and expenses.

Valuation  
of fraternal  
society  
contracts

(7) Where the contracts of a fraternal society are reinsured by a licensed insurer other than a fraternal society, the reinsurer may, with approval of the Superintendent, value such contracts on any appropriate table of mortality specified in Schedule D with interest at 4 per cent per annum. 1962-63, c. 64, s. 4, *part.*

Authoriza-  
tion for  
variable  
contracts  
based on  
segregated  
funds

**84.—**(1) Any insurer incorporated and licensed under the laws of Ontario to transact the business of life insurance may,

- (a) issue policies for which the reserves vary in amount with the market value of a specified group of assets; and
- (b) retain for investment,
  - (i) policy dividends,
  - (ii) policy proceeds that become payable on surrender or maturity of the policy not less than five years from the date of its issue if the policyholder so directs, and
  - (iii) policy proceeds that become payable on the death of the policyholder if the policyholder or beneficiary so directs,

on the basis that the liability of the insurer in respect

thereof varies in amount with the market value of a specified group of assets,

and the insurer shall maintain in respect of such policies, dividends and proceeds, as the case may be, one or more separate and distinct funds with separate assets for each such fund.

(2) For the purpose of creating a separate and distinct fund under subsection 1, an insurer may, if duly authorized by by-law, How fund created

- (a) make a transfer from the shareholders' fund but the amount so transferred shall not exceed the surplus in the shareholders' fund; and
- (b) make a transfer of assets from one or more life insurance funds, but,
  - (i) the maximum amount that may be transferred from any life insurance fund is the amount by which 25 per cent of the surplus in that fund exceeds the aggregate of all prior transfers from that fund to all such separate and distinct funds under this subsection and clause *b* of subsection 3 less the aggregate of all prior transfers to that fund pursuant to clause *a* of subsection 5; and
  - (ii) the maximum amount that may be transferred from all life insurance funds is the amount by which 10 per cent of the surplus in those funds or \$2,000,000, whichever is the lesser, exceeds the aggregate of all prior transfers from those funds to all such separate and distinct funds pursuant to this subsection and clause *b* of subsection 3 less the aggregate of all prior transfers to all life insurance funds pursuant to clause *a* of subsection 5.

(3) For the purpose of maintaining a separate and distinct fund under subsection 1, an insurer may from time to time make transfers from a life insurance fund, Transfers to fund

- (a) to the extent that the assets of the separate and distinct fund are not sufficient to provide for any benefits guaranteed under the terms of the policies for which the separate fund is held; or
- (b) in any case other than that mentioned in clause *a*, if the insurer provides evidence satisfactory to the Superintendent that such transfers are necessary for the proper administration of the policies or deposits for which the separate fund is held.

(4) Where for the purposes of subsection 2 the surplus in any fund is required to be determined, the surplus shall be taken as shown in the most recent annual statement filed with the Superintendent. Surplus



Segregation  
of  
assets  
for  
policies

(5) Where a separate and distinct fund is maintained under subsection 1, the assets of such fund shall, subject to subsection 3, be available only to meet the liabilities arising under the policies or deposits in respect of which such fund is maintained, except that,

- (a) any amount representing the value of a transfer, or any part thereof, to such separate and distinct fund under subsection 2 or clause *b* of subsection 3, may, with the approval of the Superintendent, be transferred back to the fund or funds from which such transfer was made, and, where there is more than one such fund, the amount transferred back to each shall be that proportion of the whole amount that the amount transferred from that fund to the separate and distinct fund was to the total amount so transferred from all the funds; and
- (b) any assets, other than assets in respect of a transfer to the separate and distinct fund under subsection 2 or clause *b* of subsection 3, remaining in the separate and distinct fund after the discharge of all the insurer's liabilities in respect of the policies or deposits for which the fund is maintained, may be transferred to such other fund as the directors may determine.

Value of  
transfers

(6) For the purposes of clause *b* of subsection 2, the value of any assets transferred to or from a separate and distinct fund shall be taken as the value thereof at the time of transfer to that fund and, for all other purposes, the value from time to time of any assets that have been transferred to a separate and distinct fund maintained under subsection 1 shall be the market value of such assets.

Exception  
from  
investment  
limitations

(7) Where a separate and distinct fund is maintained under subsection 1, the percentage limits specified in clauses *e* and *f* of section 385 do not apply to the investments and loans constituting the assets of the fund and in the application of those limits to the insurer as a whole the assets of any such separate fund shall not be taken into account. 1970, c. 134, s. 9, *part*.

Definition  
of variable  
insurance  
contracts

**85.**—(1) In this section, “variable insurance contract” means an annuity or life insurance contract for which the reserves or a part thereof vary in amount with the market value of a specified group of assets held in a separate and distinct fund and includes a life insurance contract under which policy dividends or policy proceeds may be retained for investment in such a fund.

Prohibition

(2) No insurer shall issue a variable insurance contract or offer to enter into a variable insurance contract that under this Act would be deemed to be made in Ontario until there has been filed with the Superintendent a specimen form of such variable insurance contract, an information folder pertaining thereto and

such other material as may be required under the regulations and a receipt therefor has been obtained from the Superintendent.

(3) The forms of variable insurance contracts and information folders with respect thereto shall comply with the requirements of Part V of this Act and the regulations. Form of contract

(4) The information folder shall provide brief and plain disclosure of all material facts relating to the variable insurance contract and shall contain a certificate to that effect signed by the chief executive officer and the chief financial officer of the insurer or such other persons as the regulations may prescribe. Form of information folder

(5) No application for a variable insurance contract shall be accepted by an insurer until the insurer has delivered to the applicant therefor a copy of the latest information folder relating thereto that is on file with the Superintendent. Delivery of information folder

(6) So long as an insurer continues to issue a variable insurance contract in respect of which it has filed an information folder, it shall, New information folders

- (a) forthwith after the occurrence of any material change in the contract or in any other facts set out in the latest information folder so filed; and
- (b) within thirteen months after the date of filing of the latest information folder so filed, or such other period of time as may be provided by the regulations,

file with the Superintendent a new information folder in respect thereof.

(7) Where it appears to the Superintendent that, Prohibition order

- (a) an information folder or any other document filed with the Superintendent by an insurer with respect to a variable insurance contract,
  - (i) fails to comply in any substantial respect with the requirements of this Act or the regulations,
  - (ii) contains any promise, estimate, illustration or forecast that is misleading, false or deceptive, or
  - (iii) conceals or omits to state any material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made; or
- (b) the financial condition of the insurer or its method of operation in connection with the issuance of its variable insurance contracts will not afford sufficient protection to prospective purchasers of such variable insurance contracts in Ontario,

the Superintendent shall report the same to the Minister and the Minister, if he concurs in the report and after affording the insurer

an opportunity to be heard, may order the Superintendent to prohibit the insurer from continuing to issue such variable insurance contracts in Ontario.

Regulations

(8) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form and content of variable insurance contracts;
- (b) prescribing the form, content and time of filing and delivery of information folders;
- (c) for the furnishing of information by an insurer or an agent thereof to prospective purchasers of variable insurance contracts;
- (d) prescribing the documents, reports, statements, agreements and other information required to be filed, furnished or delivered under this section, and the form and content thereof. 1970, c. 134, s. 9, *part*.

Separate  
accounts

**86.** Every insurer licensed to transact life insurance shall keep separate and distinct accounts of participating and non-participating business. 1970, c. 134, s. 9, *part*.

#### INSURANCE WITH UNLICENSED INSURERS

Insurance  
with  
unlicensed  
insurers

**87.** Notwithstanding anything in this Act, any person may insure property situated in Ontario against fire with an unlicensed insurer, and any property insured or to be insured under this section may be inspected and any loss incurred in respect thereof adjusted, if such insurance is effected outside Ontario and without any solicitation whatsoever directly or indirectly on the part of the insurer. R.S.O. 1960, c. 190, s. 81.

#### UNDERWRITERS AGENCIES

Licence

**88.**—(1) A policy of insurance shall not be issued through any underwriters agency under its own name for an insurer, unless the insurer is licensed to carry on business in Ontario and has obtained from the Superintendent a licence to issue contracts of insurance through such underwriters agency.

Form of  
policy

(2) Every policy of insurance issued through any such underwriters agency shall be in a form approved by the Superintendent and shall bear upon its face the name and address of the insurer in a prominent and conspicuous manner, and the name of the underwriters agency shall not appear on the face of the policy except as a countersignature thereto.

Name on  
filing back

(3) On no other part of the policy shall the name of the underwriters agency appear except that for identification purposes the words "issued through the . . . . . Underwriters Agency" may be printed on the filing back of the

policy following the name of the insurer and in type not larger than half the depth of that used in printing such name.

(4) Upon an application for a licence under this section, the insurer shall furnish to the Superintendent evidence of its approval and adoption of the form of policy to be issued through the underwriters agency and of the authority of the underwriters agency or its agents to bind the insurer.

Evidence of adoption of form of policy by insurer

(5) Every insurer licensed under this Act carrying on business or issuing any policy of insurance through any such underwriters agency shall file an annual return of the business transacted through the same underwriters agency in a form prescribed by the Superintendent. R.S.O. 1960, c. 190, s. 82.

Annual return

#### GENERAL

**89.** Any person, other than an insurer or its duly authorized agent, who advertises or holds himself out as a purchaser of life insurance policies or of benefits thereunder, or who trafficks or trades in life insurance policies for the purpose of procuring the sale, surrender, transfer, assignment, pledge or hypothecation thereof to himself or any other person, is guilty of an offence. R.S.O. 1960, c. 190, s. 83.

Trafficking in life insurance policies prohibited

**90.** Any information, document, record, statement or thing made or disclosed to the Superintendent concerning a person licensed or applying for licence under this Act is absolutely privileged and shall not be used as evidence in any action or proceeding in any court brought by or on behalf of such person. R.S.O. 1960, c. 190, s. 84.

Privileged information

**91.**—(1) The Superintendent may require an insurer to file with him a copy of any form of policy or of the form of application for any policy issued or used by the insurer.

Insurer to file form of policy

(2) The Superintendent shall report to the Minister any case where an insurer issues a policy or uses an application that, in the opinion of the Superintendent, is unfair, fraudulent or not in the public interest, and after hearing the insurer the Minister may, if he concurs in the report, order the Superintendent to prohibit the insurer from issuing or using such form of policy or application.

Prohibition of certain policies

(3) An insurer that, after being so prohibited, issues any such policy or uses any such application is guilty of an offence. R.S.O. 1960, c. 190, s. 85.

Offence

**92.** Unless the contract otherwise provides, a contravention of any criminal or other law in force in Ontario or elsewhere does not, *ipso facto*, render unenforceable a claim for indemnity under a contract of insurance except where the contravention is committed by the insured, or by another person with the consent of the

Violation of law, effect of, on claim for indemnity



insured, with intent to bring about loss or damage but in the case of a contract of life insurance this section applies only to disability insurance undertaken as part of the contract. R.S.O. 1960, c. 190, s. 86.

Reporting on applications to register under R.S.C. 1952, c. 31

**93.** An insurer incorporated under the laws of Ontario shall notify the Superintendent fourteen days in advance of making application for registration under Part IX of the *Canadian and British Insurance Companies Act* (Canada) or any similar enactment or regulation of the Government of Canada. 1970, c. 134, s. 10.

#### PENALTIES

General penalty

**94.**—(1) Unless otherwise provided, every person guilty of an offence under this Act shall incur a fine of not less than \$50 and not more than \$500 for every such offence. R.S.O. 1960, c. 190, s. 87 (1); 1966, c. 71, s. 6.

Suspension of licence

(2) In addition, where an insurer contravenes the prohibitions or fails to comply with the requirements of this Act, the Lieutenant Governor in Council may, upon the report of the Superintendent, suspend or cancel the licence of the insurer.

Penalty for carrying on business without a licence

(3) Every insurer undertaking insurance or carrying on business in Ontario without holding a licence to do so is guilty of an offence and shall incur a fine of \$50 for each and every day during which the default continues.

Penalty for default in making returns

(4) In case of default in making a return required by this Act to be made within a limited time, the insurer or the person required by this Act to make the return shall, in addition to the fine provided by subsection 1, incur a further fine of \$100 for every month or part thereof during which such insurer or person neglects to file the return so required.

Burden of proof of licence

(5) In any prosecution under this Act, whenever it appears that the accused has done any act or been guilty of any omission in respect of which he would be liable to some penalty under this Act or the regulations made hereunder, unless he is duly licensed, it is incumbent upon him to prove that he is duly licensed.

Recovery and disposition of fines R.S.O. 1970, c. 450

(6) The fines imposed under this Act are recoverable under *The Summary Convictions Act* and when recovered shall be paid over to the Treasurer of Ontario for the use of Ontario. R.S.O. 1960, c. 190, s. 87 (2-6).

#### FEES AND REGULATIONS

Fees

**95.**—(1) Until otherwise prescribed by the Lieutenant Governor in Council, the fees or taxes payable to the Superintendent by an insurer or other person are as mentioned in Schedule A. R.S.O. 1960, c. 190, s. 88 (1); 1964, c. 47, s. 8 (1).

When payable

(2) Such fees or taxes shall be paid before a licence or the renewal of a licence is issued. R.S.O. 1960, c. 190, s. 88 (2).

(3) The Lieutenant Governor in Council may make regulations, Regulations

- (a) altering or amending the scale of fees or taxes provided for in Schedule A;
- (b) extending the provisions of this Act or any of them to a system or class of insurance not particularly mentioned in this Act;
- (c) governing group insurance contracts or schemes, or any class thereof including prescribing and regulating their terms and conditions, qualifications for membership in groups and regulating the marketing of group insurance contracts or schemes;
- (d) prescribing and defining the terms and conditions upon which an insurer licensed to transact the business of life insurance may invest its funds in fully paid shares of other corporations under the provisions of this Act;
- (e) generally for the better administration of this Act. R.S.O. 1960, c. 190, s. 88 (3); 1964, c. 47, s. 8 (2); 1970, c. 134, s. 11.

### PART III

#### INSURANCE CONTRACTS IN ONTARIO

**96.** Except where otherwise provided and where not inconsistent with other provisions of this Act, this Part applies to every contract of insurance made in Ontario, other than contracts of, Application of Part

- (a) accident and sickness insurance;
- (b) life insurance; and
- (c) marine insurance. R.S.O. 1960, c. 190, s. 89.

**97.** Where the subject-matter of a contract of insurance is property in Ontario or an insurable interest of a person resident in Ontario, the contract of insurance, if signed, countersigned, issued or delivered in Ontario or committed to the post office or to any carrier, messenger or agent to be delivered or handed over to the insured, his assign or agent in Ontario shall be deemed to evidence a contract made therein, and the contract shall be construed according to the law thereof, and all moneys payable under the contract shall be paid at the office of the chief officer or agent in Ontario of the insurer in lawful money of Canada. R.S.O. 1960, c. 190, s. 90. Contracts deemed made in Ontario

**98.—**(1) All the terms and conditions of the contract of insurance shall be set out in full in the policy or by writing securely attached to it when issued, and, unless so set out, no term of the contract or condition, stipulation, warranty or proviso modifying or impairing its effect is valid or admissible in evidence to the prejudice of the insured or beneficiary. Terms, etc., of contracts invalid unless set out in full

- Exception (2) Subsection 1 does not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy.
- Contents of renewal receipt (3) Whether the contract does or does not provide for its renewal, but it is renewed by a renewal receipt, it is a sufficient compliance with subsection 1 if the terms and conditions of the contract are set out as provided by that subsection and the renewal receipt refers to the contract by its number or date.
- What regard to be given to proposal (4) The proposal or application of the insured shall not as against him be deemed a part of or be considered with the contract of insurance except in so far as the court determines that it contains a material misrepresentation by which the insurer was induced to enter into the contract.
- Contract not to be invalidated by erroneous statement in application unless material (5) No contract of insurance shall contain or have endorsed upon it, or be made subject to, any term, condition, stipulation, warranty or proviso providing that such contract shall be avoided by reason of any statement in the application therefor, or inducing the entering into of the contract by the insurer, unless such term, condition, stipulation, warranty or proviso is and is expressed to be limited to cases in which such statement is material to the contract, and no contract shall be avoided by reason of the inaccuracy of any such statement unless it is material to the contract.
- Materiality, how decided (6) The question of materiality in a contract of insurance is a question of fact for the jury, or for the court if there is no jury, and no admission, term, condition, stipulation, warranty or proviso to the contrary contained in the application or proposal for insurance, or in the instrument of contract, or in any agreement or document relating thereto, has any force or validity.
- Application (7) This section does not apply to contracts of fire or automobile insurance. R.S.O. 1960, c. 190, s. 91.
- Copy of proposal to be furnished to insured **99.** An insurer shall upon request furnish to the insured a true copy of his application or proposal for insurance. R.S.O. 1960, c. 190, s. 92.
- No contract shall be inconsistent with Act **100.**—(1) No insurer shall make a contract of insurance inconsistent with this Act.
- Rights of insured (2) An act or omission of the insurer resulting in imperfect compliance with any of the provisions of this Act does not render a contract invalid as against the insured. R.S.O. 1960, c. 190, s. 93.
- Contents of policy **101.**—(1) Every policy shall contain the name of the insurer, the name of the insured, the name of the person or persons to whom the insurance money is payable, the amount, or the method

of determining the amount, of the premium for the insurance, the subject-matter of the insurance, the indemnity for which the insurer may become liable, the event on the happening of which the liability is to accrue, the date upon which the insurance takes effect and the date it terminates or the method by which the latter is fixed or to be fixed. 1962-63, c. 64, s. 6.

(2) This section does not apply to contracts of guarantee insurance. R.S.O. 1960, c. 190, s. 94 (2); 1966, c. 71, s. 7. Application of section

**102.**—(1) This section applies to a contract containing a condition, statutory or otherwise, providing for an appraisal to determine specified matters in the event of a disagreement between the insured and the insurer. Application

(2) The insured and the insurer shall each appoint an appraiser, and the two appraisers so appointed shall appoint an umpire. Appraisals

(3) The appraisers shall determine the matters in disagreement and, if they fail to agree, they shall submit their differences to the umpire, and the finding in writing of any two determines the matters. Appraisers

(4) Each party to the appraisal shall pay the appraiser appointed by him and shall bear equally the expense of the appraisal and the umpire. Costs

(5) Where, Appointment by judge

(a) a party fails to appoint an appraiser within seven clear days after being served with written notice to do so;

(b) the appraisers fail to agree upon an umpire within fifteen days after their appointment; or

(c) an appraiser or umpire refuses to act or is incapable of acting or dies,

a judge of the county or district court of the county or district in which the appraisal is to be made may appoint an appraiser or umpire, as the case may be, upon the application of the insured or of the insurer. 1966, c. 71, s. 8, *part*.

**103.** Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or other matter or thing required to be done or omitted by the insured with respect to the loss and a consequent forfeiture or avoidance of the insurance in whole or in part and the court considers it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it considers just. 1966, c. 71, s. 8, *part*. Relief from forfeiture

**104.** Insurance money is payable in Ontario in lawful money of Canada. 1966, c. 71, s. 8, *part*. How policy payable



Waiver of  
term or  
condition

**105.**—(1) No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part unless the waiver is stated in writing and signed by a person authorized for that purpose by the insurer.

Idem

(2) Neither the insurer nor the insured shall be deemed to have waived any term or condition of a contract by any act relating to the appraisal of the amount of loss or to the delivery and completion of proofs or to the investigation or adjustment of any claim under the contract. 1966, c. 71, s. 8, *part*.

Right of  
claimant  
against in-  
surer where  
execution  
against  
insured  
returned  
unsatisfied

**106.**—(1) Where a person incurs a liability for injury or damage to the person or property of another, and is insured against such liability, and fails to satisfy a judgment awarding damages against him in respect of his liability, and an execution against him in respect thereof is returned unsatisfied, the person entitled to the damages may recover by action against the insurer the amount of the judgment up to the face value of the policy, but subject to the same equities as the insurer would have if the judgment had been satisfied.

Exception

(2) This section does not apply to motor vehicle liability policies. R.S.O. 1960, c. 190, s. 95.

Consolida-  
tion of  
actions

**107.**—(1) Where several actions are brought for the recovery of money payable under a contract or contracts of insurance, the court may consolidate or otherwise deal therewith so that there is but one action for and in respect of all the claims made in such actions.

Where  
infants are  
entitled to  
insurance  
money

(2) Where an action is brought to recover the share of one or more infants, all the other infants entitled, or the trustees, executors or guardians entitled to receive payment of the shares of such other infants, shall be made parties to the action, and the rights of all the infants shall be determined in one action.

Apportion-  
ment of sums  
directed to  
be paid

(3) In all actions where several persons are interested in the insurance money, the court or judge may apportion among the persons entitled any sum directed to be paid, and may give all necessary directions and relief.

When payee  
is domiciled  
or resident  
abroad

(4) Where the person entitled to receive money due and payable under a contract of insurance, except insurance of the person, is domiciled or resides in a foreign jurisdiction and payment, valid according to the law of such jurisdiction, is made to such person, such payment is valid and effectual for all purposes. R.S.O. 1960, c. 190, s. 96.

Effect of  
delivery of  
policy

**108.**—(1) Where the policy has been delivered, the contract is as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who had not authority to deliver it.

(2) The insurer may sue for the unpaid premium and may deduct the amount thereof from the amount for which he is liable under the contract of insurance. R.S.O. 1960, c. 190, s. 97 (1, 2).

Right of insurer in respect of unpaid premium

(3) Where a cheque, bill of exchange or promissory note is given, whether originally or by way of renewal, for the whole or part of any premium and the cheque, bill of exchange or promissory note is not honoured according to its tenor, the insurer may terminate the contract forthwith by giving written notice by registered mail. R.S.O. 1960, c. 190, s. 97 (3); 1968-69, c. 53, s. 4.

Where note or cheque for premium not honoured

**109.**—(1) An insurer, immediately upon receipt of a request, and in any event not later than sixty days after receipt of notice of loss, shall furnish to the insured or person to whom the insurance money is payable forms upon which to make the proof of loss required under the contract. R.S.O. 1960, c. 190, s. 98 (1).

Insurer to furnish forms

(2) An insurer who neglects or refuses to comply with subsection 1 is guilty of an offence, and in addition section 110 is not available to the insurer as a defence to an action brought, after such neglect or refusal, for the recovery of moneys alleged to be payable under the contract of insurance. 1970, c. 134, s. 12.

Offence

(3) The furnishing by an insurer of forms to make proof of loss shall not be taken to constitute an admission by the insurer that a valid contract is in force or that the loss in question falls within the insurance provided by the contract. 1968-69, c. 53, s. 5.

Furnishing of forms not an admission

**110.** No action shall be brought for the recovery of money payable under a contract of insurance until the expiration of sixty days after proof, in accordance with the provisions of the contract,

When action may be brought under contract

(a) of the loss; or

(b) of the happening of the event upon which the insurance money is to become payable,

or of such shorter period as is fixed by the contract of insurance. R.S.O. 1960, c. 190, s. 99.

#### INSURANCE AS COLLATERAL SECURITY

**111.**—(1) A mortgagee shall not accept or be entitled to receive either directly or through his agent or employee, and no officer or employee of such mortgagee shall accept or receive, any commission or other remuneration or benefit in consideration of effecting a contract of insurance or renewal thereof under which contract loss, if any, is payable to him as mortgagee.

Mortgagee not to receive commission from insurer

(2) No insurer or agent or broker shall pay, allow or give any commission or other remuneration or benefit to a mortgagee or to any person in his employ or on his behalf in consideration of effecting a contract of insurance or renewal thereof under which contract loss, if any, is payable to him as mortgagee.

Payment of commission prohibited

Offence (3) Any insurer or other person who contravenes this section is guilty of an offence. R.S.O. 1960, c. 190, s. 100.

Right to  
refund of  
premium  
on termina-  
tion of  
contract

**112.**—(1) Where an insured assigns the right to refund of premium that may accrue by reason of the cancellation or termination of a contract of insurance under the terms thereof and notice of the assignment is given by the assignee to the insurer, the insurer shall pay any such refund to the assignee notwithstanding any condition in the contract, whether prescribed under this Act or not, requiring the refund to be paid to the insured or to accompany any notice of cancellation or termination to the insured.

Idem

(2) Where the condition in the contract dealing with cancellation or termination by the insurer provides that the refund shall accompany the notice of cancellation or termination, the insurer shall include in the notice a statement that in lieu of payment of the refund in accordance with the condition the refund is being paid to the assignee under this section. R.S.O. 1960, c. 190, s. 101.

#### CONTRACTS OF GUARANTEE INSURANCE

Contracts  
of title  
insurance

**113.**—(1) Every contract of title insurance shall be in writing, and, in addition to the other requirements prescribed by this Act, shall expressly limit the liability of the insurer to a sum stated in the contract.

Questions as  
to validity  
of title

R.S.O. 1970,  
c. 478

(2) If a question arises as to the validity of the title insured, or as to the liability of the insurer, the insurer or the insured or any person entitled to proceed in right of either may by application have such question determined as provided in *The Vendors and Purchasers Act* in the case of vendors and purchasers. R.S.O. 1960, c. 190, s. 102.

#### GENERAL

No racial  
or religious  
discrimina-  
tion per-  
missible

**114.** Any licensed insurer that discriminates unfairly between risks in Ontario because of the race or religion of the insured is guilty of an offence. R.S.O. 1960, c. 190, s. 103.

Payment  
into court

**115.**—(1) Where an insurer cannot obtain a sufficient discharge for insurance money for which it admits liability, the insurer may apply to the court *ex parte* for an order for the payment thereof into court, and the court may order the payment into court to be made upon such terms as to costs and otherwise as the court may direct, and may provide to what fund or name the amount shall be credited.

(2) The receipt of the registrar or other proper officer of the court is sufficient discharge to the insurer for the insurance money so paid into court, and the insurance money shall be dealt with according to the orders of the court. R.S.O. 1960, c. 190, s. 104.

Discharge  
to insurer

## PART IV

### FIRE INSURANCE

**116.** In this Part, unless the context otherwise requires, “agricultural property” includes dwelling-houses, stables, barns, sheds and outbuildings and their contents, wagons, carriages, and other vehicles, saddles and harness, agricultural engines, implements, tools, instruments, appliances and machinery, household goods, wearing apparel, provisions, musical instruments, libraries, live stock, growing crops, and crops severed from the land, fruit and ornamental trees, shrubs and plants, and live or standing timber, being upon farms as farm property, and owned by members of the insurer in which the property is insured. R.S.O. 1960, c. 190, s. 105.

Interpre-  
tation

**117.**—(1) This Part applies to insurance against loss of or damage to property arising from the peril of fire in any contract made in Ontario except,

Application  
of Part

- (a) insurance falling within the classes of aircraft, automobile, boiler and machinery, inland transportation, marine, plate glass, sprinkler leakage and theft insurance;
- (b) where the subject-matter of the insurance is rents, charges or loss of profits;
- (c) where the peril of fire is an incidental peril to the coverage provided; or
- (d) where the subject-matter of the insurance is property that is insured by an insurer or group of insurers primarily as a nuclear risk under a policy covering against loss of or damage to the property resulting from nuclear reaction or nuclear radiation and from other perils.

(2) Notwithstanding subsection 1, this Part applies to insurance of an automobile as provided in subsection 2 of section 27. R.S.O. 1960, c. 190, s. 106.

Automobiles

**118.**—(1) Subject to subsection 4 of this section and to clause a of section 125, in any contract to which this Part applies the contract shall be deemed to cover the insured property,

Extent of  
coverage  
by contract

- (a) against fire (whether resulting from explosion or otherwise) not occasioned by or happening through,



- (i) in the case of goods, their undergoing any process involving the application of heat,
- (ii) riot, civil commotion, war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;
- (b) against lightning, but excluding destruction or loss to electrical devices or appliances caused by lightning or other electrical currents unless fire originates outside the article itself and only for such destruction or damage as occurs from such fire;
- (c) against explosion (not occasioned by or happening through any of the perils specified in subclause ii of clause a) of natural, coal or manufactured gas in a building not forming part of a gas works, whether fire ensues therefrom or not.

Radio-  
active  
contami-  
nation

(2) Unless a contract to which this Part applies otherwise specifically provides, it does not cover the insured property against loss or damage caused by contamination by radio-active material directly or indirectly resulting from fire, lightning or explosion within the meaning of subsection 1.

Coverage  
where  
property  
removed

(3) Where property insured under a contract covering at a specified location is necessarily removed to prevent loss or damage or further loss or damage thereto, that part of the insurance under the contract that exceeds the amount of the insurer's liability for any loss incurred covers, for seven days only or for the unexpired term of the contract if less than seven days, the property removed and any property remaining in the original location in the proportions that the value of the property in each of the respective locations bears to the value of the property in them all.

Extended  
insurance

(4) Nothing in subsection 1 precludes an insurer giving more extended insurance against the perils mentioned therein, but in that case this Part does not apply to the extended insurance.

Power to  
extend  
meaning of  
"lightning"  
in live stock  
contracts

(5) An insurer licensed to carry on fire insurance may include in its insurance contracts a clause or endorsement providing that, in the case of live stock insured against death or injury caused by fire or lightning, the word "lightning" is deemed to include other electrical currents. R.S.O. 1960, c. 190, s. 107.

Renewal of  
contract

**119.** A contract may be renewed by the delivery of a renewal receipt identifying the policy by number, date or otherwise, or a new premium note. R.S.O. 1960, c. 190, s. 108.

**120.** After an application for insurance is made, if it is in writing, any policy sent to the insured shall be deemed to be intended to be in accordance with the terms of the application, unless the insurer points out in writing the particulars wherein it differs from the application, in which case the insured may, within two weeks from the receipt of the notification, reject the policy. R.S.O. 1960, c. 190, s. 109. Form of contract

**121.—**(1) Where the loss, if any, under a contract has, with the consent of the insurer, been made payable to a person other than the insured, the insurer shall not cancel or alter the policy to the prejudice of that person without notice to him. Mortgagees and other payees

(2) The length of and manner of giving the notice under subsection 1 is the same as notice of cancellation to the insured under the statutory conditions in the contract. R.S.O. 1960, c. 190, s. 110. Form of notice

**122.—**(1) The conditions set forth in this section shall be deemed to be part of every contract in force in Ontario and shall be printed on every policy with the heading “Statutory Conditions” and no variation or omission of or addition to any statutory condition is binding on the insured. Statutory conditions

(2) In this section, “policy” does not include interim receipts or binders. Interpretation

**STATUTORY CONDITIONS**

**Misrepresentation**      **1.** If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

**Property of Others**      **2.** Unless otherwise specifically stated in the contract, the insurer is not liable for loss or damage to property owned by any person other than the insured, unless the interest of the insured therein is stated in the contract.

**Change of Interest**      **3.** The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy Act* or change of title by succession, by operation of law, or by death.

**Material Change**      **4.** Any change material to the risk and within the control and knowledge of the insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent, and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the insured in writing that, if he desires the contract to continue in force, he must, within fifteen days of the receipt of the notice, pay to the insurer an additional premium, and in default of such payment the contract is no longer in force and the insurer shall return the unearned portion, if any, of the premium paid.

**Termination****5.**—(1) This contract may be terminated,

- (a) by the insurer giving to the insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered;
- (b) by the insured at any time on request.

(2) Where this contract is terminated by the insurer,

- (a) the insurer shall refund the excess of premium actually paid by the insured over the *pro rata* premium for the expired time, but, in no event, shall the *pro rata* premium for the expired time be deemed to be less than any minimum retained premium specified; and
- (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.

(3) Where this contract is terminated by the insured, the insurer shall refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.

(4) The refund may be made by money, postal or express company money order or cheque payable at par.

(5) The fifteen days mentioned in clause *a* of subcondition 1 of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

**Requirements  
After Loss**

**6.**—(1) Upon the occurrence of any loss of or damage to the insured property, the insured shall, if the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,

- (a) forthwith give notice thereof in writing to the insurer;
- (b) deliver as soon as practicable to the insurer a proof of loss verified by a statutory declaration,
  - (i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
  - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
  - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
  - (iv) showing the amount of other insurances and the names of other insurers,
  - (v) showing the interest of the insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
  - (vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,
  - (vii) showing the place where the property insured was at the time of loss;
- (c) if required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
- (d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers

verified by statutory declaration, and furnish a copy of the written portion of any other contract.

(2) The evidence furnished under clauses *c* and *d* of subparagraph 1 of this condition shall not be considered proofs of loss within the meaning of conditions 12 and 13.

**Fraud**

7. Any fraud or wilfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.

**Who may give notice and proof**

8. Notice of loss may be given and proof of loss may be made by the agent of the insured named in the contract in case of absence or inability of the insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

**Salvage**

9.—(1) The insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.

(2) The insurer shall contribute *pro rata* towards any reasonable and proper expenses in connection with steps taken by the insured and required under subparagraph 1 of this condition according to the respective interests of the parties.

**Entry, Control, Abandonment**

10. After loss or damage to insured property, the insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the insurer is not entitled to the control or possession of the insured property, and without the consent of the insurer there can be no abandonment to it of insured property.

**Appraisal**

11. In the event of disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under *The Insurance Act* before there can be any recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

**When Loss Payable**

12. The loss is payable within sixty days after completion of the proof of loss, unless the contract provides for a shorter period.

**Replacement**

13.—(1) The insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.

(2) In that event the insurer shall commence to so repair, rebuild, or replace the property within forty-five days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

**Action**

14. Every action or proceeding against the insurer for the recovery of a claim under or by virtue of this contract is absolutely barred unless commenced within one year next after the loss or damage occurs.



**Notice**

**15.** Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Province. Written notice may be given to the insured named in the contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada.

R.S.O. 1960, c. 190, s. 111; 1966, c. 71, s. 9; 1967, c. 40, s. 1; 1968-69, c. 53, s. 6, *amended*.

Limitation  
of liability  
clause

**123.** A contract containing,

- (a) a deductible clause; or
- (b) a co-insurance, average or similar clause; or
- (c) a clause limiting recovery by the insured to a specified percentage of the value of any property insured at the time of loss, whether or not that clause is conditional or unconditional,

shall have printed or stamped upon its face in red ink the words "This policy contains a clause that may limit the amount payable", failing which the clause is not binding upon the insured. R.S.O. 1960, c. 190, s. 113.

Rateable  
contribution

**124.—(1)** Where on the happening of any loss or damage to property insured there is in force more than one contract covering the same interest, each of the insurers under the respective contracts is liable to the insured for its rateable proportion of the loss, unless it is otherwise expressly agreed in writing between the insurers.

Effect of  
policy may  
not be  
postponed

(2) For the purpose of subsection 1, a contract shall be deemed to be in force notwithstanding any term thereof that the policy will not cover, come into force, attach or become insurance with respect to the property until after full or partial payment of any loss under any other policy.

Certain  
restrictions  
valid

(3) Nothing in subsection 1 affects the validity of any divisions of the sum insured into separate items, or any limits of insurance on specified property, or any clause referred to in section 123 or any contract condition limiting or prohibiting the having or placing of other insurance.

Ascertain-  
ment of  
rateable  
proportions

(4) Nothing in subsection 1 affects the operation of any deductible clause and,

- (a) where one contract contains a deductible, the *pro rata* proportion of the insurer under that contract shall be first ascertained without regard to the clause and then the clause shall be applied only to affect the amount of recovery under that contract; and

- (b) where more than one contract contains a deductible, the *pro rata* proportion of the insurers under those contracts shall be first ascertained without regard to the deductible clauses and then the highest deductible shall be pro rated among the insurers with deductibles and these pro rated amounts shall affect the amount of recovery under those contracts.

(5) Nothing in subsection 4 shall be construed to have the effect of increasing the *pro rata* contribution of an insurer under a contract that is not subject to a deductible clause. Idem

(6) Notwithstanding subsection 1, insurance on identified articles is a first loss insurance as against all other insurance. Insurance on identified articles  
R.S.O. 1960, c. 190, s. 114.

**125.** Where a contract,

- (a) excludes any loss that would otherwise fall within the coverage prescribed by section 118; or
- (b) contains any stipulation, condition or warranty that is or may be material to the risk including, but not restricted to, a provision in respect to the use, condition, location or maintenance of the insured property,

Special stipulations

the exclusion, stipulation, condition or warranty is not binding upon the insured, if it is held to be unjust or unreasonable by the court before which a question relating thereto is tried. R.S.O. 1960, c. 190, s. 116.

**126.**—(1) The insurer, upon making a payment or assuming liability therefor under a contract of fire insurance, is subrogated to all rights of recovery of the insured against any person, and may bring action in the name of the insured to enforce such rights. Subrogation

(2) Where the net amount recovered, after deducting the costs of recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, that amount shall be divided between the insurer and the insured in the proportions in which the loss or damage has been borne by them respectively. R.S.O. 1960, c. 190, s. 118. Where amount recovered is not sufficient to indemnify

PREMIUM NOTES AND ASSESSMENTS

**127.**—(1) Sections 128 to 144 apply only to mutual and cash-mutual fire insurance corporations and, except sections 129, 130 and 140, to mutual live stock and mutual weather insurance corporations that carry on business on the premium note plan. R.S.O. 1960, c. 190, s. 119 (1). Application of ss. 128 to 144

Insurance  
on premium  
note plan

(2) No licensed insurer shall carry on, on the premium note plan, any class of insurance other than fire, livestock and weather insurance, but a mutual insurance company without guarantee capital stock, incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan, may also insure for the classes of insurance as specified in subsection 13 of section 169 of *The Corporations Act*. 1968-69, c. 53, s. 7.

R.S.O. 1970,  
c. 89

Application  
of ss. 128  
to 144

(3) Sections 128 to 144 apply only to contracts made in Ontario. R.S.O. 1960, c. 190, s. 119 (3).

Insurer  
may accept  
premium  
notes

**128.**—(1) The insurer may accept the premium note of the insured for insurance and may undertake contracts in consideration thereof and such notes are subject to cash payments and assessments for the losses, expenses and reserve of the insurer in the manner hereinafter provided.

Form of  
note

(2) The premium note shall be in the form prescribed by Schedule B.

Premium  
note

(3) Nothing but the notice provided by section 141 shall be written upon the same paper upon which the premium note is written, and a contravention of this section renders the premium note void. R.S.O. 1960, c. 190, s. 120.

Minimum  
rates

**129.** The rate to be charged or taken by way of premium note for insuring agricultural property, other than brick, stone or concrete dwellings, shall be not less than \$3 for three years for every \$100 of insurance, and the minimum rate upon other property may be increased or decreased relatively with the risk according to the nature of the property. R.S.O. 1960, c. 190, s. 121.

Minimum  
cash  
payment

**130.**—(1) Subject to subsection 3, the directors shall require at the time of the application for insurance of agricultural property, other than brick, stone or concrete dwellings, a cash payment on the premium note of not less than 80 cents for three years for every \$100 of insurance and may require a larger or smaller cash payment at the time of the application for the insurance of other property, but not more than 60 per cent of any premium note shall be paid in cash at the time of the application for or of effecting the insurance.

Reduction  
by  
directors

(2) The cash payment required at the time of the application for insurance of agricultural property, other than brick, stone or concrete dwellings, may be reduced with the approval of the Superintendent by the directors when and so long as the surplus of the insurer is not less than 25 cents for every \$100 of the total net amount at risk.

(3) Instead of requiring the cash payment to be paid in full at the time of the application for insurance, the directors may make the cash payment payable in three equal annual instalments of not less than 30 cents each for every \$100 of insurance on agricultural property, other than brick, stone or concrete dwellings, and *pro rata* on other property, the first of which shall be due and payable at the time of the application for insurance and the remaining instalments shall be respectively due and payable on the first day of each subsequent year of the term of insurance.

Payment  
by annual  
instalments

(4) In this section and in section 131, “surplus” means the assets of the insurer other than the premium note residue after deducting therefrom all liabilities of the insurer (other than contingent liabilities on unmatured contracts) and the proportion of cash payments and instalments thereof paid in advance applicable to unexpired policy contracts calculated as required by subsection 5 of section 79. R.S.O. 1960, c. 190, s. 122.

Interpre-  
tation

**131.**—(1) The directors may declare a refund from surplus,

Refund  
from  
surplus

- (a) if on the effective date of the refund the net surplus of the insurer after deducting the total amount of the refund is, in terms of cents per hundred dollars of net insurance in force, not less than the amount set out in the following table, or, in the case of an insurer with less than \$2,000,000 of net insurance in force, such other amount as may be approved by the Superintendent;
- (b) if, except as hereinafter provided, the refund applies on all policies in force on the effective date thereof;
- (c) if the refund on each policy is in the same ratio to the total refund as the face value of the premium note is to the total face value of all premium notes in force at date of refund, or, that the refund on each policy is a fixed percentage of the annual instalment or of one-third of the cash payment for three years in advance, as the case may be; and
- (d) if the by-laws of the insurer require that refunds be payable only to members insured continuously in the insurer during the three years preceding the effective date of the refund.

TABLE

When the total net amount at risk is greater than	\$125,000,000—	\$0.40
When the total net amount at risk is greater than	75,000,000—	.50
When the total net amount at risk is greater than	25,000,000—	.60
When the total net amount at risk is greater than	10,000,000—	.70
When the total net amount at risk is greater than	5,000,000—	.80
When the total net amount at risk is greater than	2,000,000—	1.00



Application  
of subs. 1

(2) Subsection 1 does not apply to cash-mutual fire insurance corporations, or to an insurer the surplus of which as defined by subsection 4 of section 130 exceeds 10 per cent of the total amount at risk.

Where  
subs. 1 to  
apply

(3) Subject to the exceptions in subsection 2, subsection 1 applies to any distribution of surplus to members, other than a distribution for the purposes of winding up or reinsurance of the insurer. R.S.O. 1960, c. 190, s. 123.

Written  
application  
required

**132.**—(1) No insurer shall make a contract on the premium note plan covering agricultural property for a term exceeding twelve months without a written application therefor signed by the applicant, or, in case of the absence of the applicant or his inability to make the application, by his agent, other than the agent of the insurer, or by a person having an insurable interest in the property.

Contents of  
application

(2) Every written application shall set forth the name, address and occupation of the applicant, the description, location and occupancy of the property to be insured, its value, particulars of any mortgage, lien or other encumbrance thereon, the purpose for which and the location in which any movable property is deposited or used, particulars of any claims made by the applicant in respect of insured loss or damage by fire, whether any insurer has cancelled any fire insurance policy of or refused fire insurance to the applicant, particulars of any other fire insurance on the same property, and such other information as the insurer or the Superintendent may require. R.S.O. 1960, c. 190, s. 124.

Assessments

**133.**—(1) The cash payment or instalments thereof required to be paid by section 130 at the time of the application for insurance shall be applied in part payment of the premium note, and the premium note residue is subject to assessments by the directors, with the approval of the Superintendent, in such sums and at such times as they may determine for reserve and for losses and expenses incurred during the currency of the policies for which the notes were given.

When due

(2) An assessment is due and payable within thirty days after notice stating the amount and date of the assessment has been given in the manner hereinafter provided.

How fixed

(3) An assessment shall be fixed as a percentage of the face amount of the premium note, and all assessments are payable on the same date and at the same rate per cent. R.S.O. 1960, c. 190, s. 125.

Penalty for  
default in  
payments

**134.**—(1) Default in making the cash payment or any instalment thereof within thirty days after notice of it becoming due or

of its non-payment when due has been given in the manner hereinafter provided, or default in paying any assessment authorized by the directors within thirty days after notice has been given as required by subsection 2 of section 133, unless the directors determine otherwise, renders the contract of insurance void as to all claims for loss occurring during the time of default, but, subject thereto, the contract is revived if and when the cash payment or instalments thereof or the assessment so in default has been paid.

(2) Nothing in this Act relieves the insured of his liability to pay the cash payment and all assessments lawfully imposed by the directors during the full term of the policy or within forty days thereafter in respect of which the prescribed notice has been given or prejudices the right of the insurer after giving the required notice to sue for and recover the same with the costs of the suit.

Liability of insured

(3) Where an action is brought to recover an assessment, the certificate of the secretary of the insurer specifying the assessment and the amount due on the note in respect of such assessment is admissible in evidence as *prima facie* proof thereof in any court. R.S.O. 1960, c. 190, s. 126.

Evidence of amount due insurer

**135.**—(1) The notices required to be given by sections 133 and 134 are sufficient if mailed to the person by whom the cash payment, or any instalment thereof, or the assessment, as the case may be, is payable, addressed to his post office address given in the original application, or otherwise given in writing, to the insurer, and, if it states the register number of the contract, the time when, and the place where, the amount is payable.

Notice

(2) Subsection 1 of section 134 shall be printed in full upon the face of all such notices.

Notice to contain s. 134 (1)

(3) If the property insured has been mortgaged and the insurer has assented to the mortgage, the notices respecting assessments and cash payments required to be mailed to the payee shall also be mailed to the mortgagee if his post office address is known to the insurer, and, if notice is not so given, the contract shall be deemed to be valid and subsisting as to the interest of the mortgagee. R.S.O. 1960, c. 190, s. 127.

Notice to mortgagee

**136.** Forty days after the expiration of the term of insurance or after the insured has sustained a total loss in respect of the property insured, the premium note given for the term is void except as to the cash payment or instalments thereof remaining unpaid and as to lawful assessments of which the prescribed written notice has been given to the maker of the premium note during the currency of the policy or within such period of forty

Return of premium note on termination of insurance

days, and on the expiration of such period the premium note shall upon application therefor be surrendered to the maker, if all liabilities with which the premium note is chargeable have been paid. R.S.O. 1960, c. 190, s. 128.

Assessments  
may be  
retained out  
of insurance  
money

**137.** If there is a loss on property insured, the directors may retain out of the insurance money the cash payment or any instalments thereof, or any lawful assessment due and payable and remaining unpaid by the insured. R.S.O. 1960, c. 190, s. 129.

Reinsurance

**138.** The directors may reinsure any risk undertaken on the premium note plan with any other insurer of the same class, and may authorize the execution of a premium note by the proper officer of the insurer, and the insurer in respect of such reinsurance contract has the same rights and is subject to the same obligations as a member of the reinsurer. R.S.O. 1960, c. 190, s. 130.

General  
reinsurance  
agreement

**139.**—(1) Subject to the approval of the Superintendent, the directors of an insurer licensed to transact insurance on the premium note plan may enter into a general reinsurance agreement with any other insurer of the same class for the reinsurance of risks on such terms and conditions as are agreed upon.

Policies  
and notes  
unnecessary

(2) Such agreement may dispense with the issue of policies and the execution of premium notes and may provide for reinsurance on the cash plan.

Writing  
and seals

(3) Such agreement shall be in writing and under the corporate seals of the parties thereto. R.S.O. 1960, c. 190, s. 131.

Mutual  
insurance  
corporations  
R.S.O. 1970,  
c. 89

(4) A mutual insurance corporation without guarantee capital stock incorporated under subsection 3 of section 168 of *The Corporations Act* shall be deemed to be an insurer of the same class under subsection 1 and under subsection 4 of section 140. 1968-69, c. 53, s. 8.

Compulsory  
reinsurance

**140.**—(1) Subject to subsection 4, no insurer shall undertake any risk on the premium note plan that is subject to the hazard of a single fire for an amount greater than that allowed by the following table unless the risk is reinsured to an amount sufficient to reduce the net liability of the insurer to the amount authorized in the table:

TABLE	
Where the total amount at risk is less than \$5,000,000 . . . . .	\$4,000
Where the total amount at risk is \$5,000,000 or more but less than \$10,000,000 . . . . .	6,000
Where the total amount at risk is \$10,000,000 or more . . . . .	8,000

(2) A risk subject to the hazard of a single fire shall be deemed to include, in the case of agricultural property, other than brick, stone or concrete dwellings, the total amount at risk on barns, outbuildings, contents, machinery, and all other items in connection therewith except live stock or a dwelling distant more than 80 feet from any other insured farm building, and in all other cases the total amount at risk on buildings or their contents where the buildings are distant less than 80 feet from each other.

Meaning of risk subject to hazard of single fire

(3) Where an insurer fails to reinsure a risk that is subject to the hazard of a single fire and for an amount greater than that allowed by the table set out in subsection 1, the Minister, on the report of the Superintendent, may suspend or cancel the licence of the insurer.

Penalty for failure to reinsure

(4) An insurer may undertake risks on the premium note plan in excess of the amounts authorized by subsection 1 where it has entered into a general reinsurance agreement with other insurers of the same class, approved by the Superintendent, whereby each insurer party to the agreement is provided with reinsurance on a plan covering in whole or in part the amount of losses in excess of its normal loss ratio as determined under the provisions of the plan. R.S.O. 1960, c. 190, s. 132 (1-4).

Exception to subs. 1

(5) No mutual insurance corporation without guarantee capital stock incorporated to transact fire insurance on the premium note plan shall undertake contracts of weather insurance unless all liability for loss in excess of \$100 on any risk covered by weather insurance is reinsured with a licensed weather company or a mutual insurance corporation without guarantee capital stock incorporated pursuant to subsection 3 of section 168 of *The Corporations Act*.

Reinsurance re weather insurance

R.S.O. 1970, c. 89

(6) The reinsurance requirement under subsection 5 with respect to weather insurance does not apply to a mutual fire insurance corporation without guarantee capital stock that is restricted by its licence to insuring the plant and stock of millers and grain dealers used in connection with the grain trade, and the dwellings, outbuildings and contents thereof owned by such millers and grain dealers or their employees, against fire and any other class or classes of insurance set out in section 27. 1968-69, c. 53, s. 9.

Idem

(7) Nothing in this section renders a contract invalid as against the insured.

Rights of insured

(8) This section does not apply to an insurer that is restricted by its licence to the insurance against fire and lightning of buildings, plant and stock of millers and grain dealers used in connection with the grain trade and the dwellings, outbuildings

Exception



and contents thereof owned by such millers and grain dealers or their employees when and so long as its surplus as defined by subsection 4 of section 130 exceeds 10 per cent of the total amount at risk. R.S.O. 1960, c. 190, s. 132 (5, 6).

Actions in  
small claims  
court

**141.** An action upon a premium note or for an assessment thereon cognizable in a small claims court may be entered, tried and determined in the court for the division in which the head office or an agency of the insurer is located, where and where only within the body of the note, or across the face thereof, there was at the time of the making of it printed in conspicuous type, or in ink of a colour different from any other in or on the note, the words following: "An action that may be brought or commenced in a small claims court in respect or on account of this note, or any sum to be assessed thereon, may be brought and commenced against the maker hereof in the small claims court for the division in which the head office or an agency of the insurer is located." R.S.O. 1960, c. 190, s. 133, *amended*.

Note not to  
be a lien  
on land

**142.** A premium note does not create a lien upon the land on which the insured property is situate. R.S.O. 1960, c. 190, s. 134.

Powers of  
incorporated  
insurers to  
insure on  
the cash  
principle

**143.**—(1) An insurer licensed to transact cash-mutual fire insurance may effect insurance upon the cash plan, but the amount of premiums received on cash insurances in any one calendar year shall not exceed four times the amount that the insurer has then on deposit with the Minister.

When  
deposit  
must be  
increased

(2) If at any time the amount of such premiums exceeds the amount authorized by subsection 1, the insurer shall at once increase its deposit to an amount sufficient to warrant the excess, and in default the Minister may suspend or cancel its licence.

What funds  
liable for  
losses

(3) All the property and assets of the insurer, including premium notes, are liable for all losses under contracts of insurance for cash premiums. R.S.O. 1960, c. 190, s. 135.

When  
execution  
upon judg-  
ment against  
insurer

**144.**—(1) No execution shall issue against a mutual or cash-mutual insurer upon a judgment until after the expiration of sixty days from the recovery thereof, but this section does not apply to a judgment recovered on a contract of insurance where more than 60 per cent of the premium or premium note was paid in cash at the time of the insurance or the application therefor.

When order  
may be  
made for  
issue

(2) A judge of the Supreme Court or the master after the recovery of a judgment against the insurer, upon the application of the judgment creditor and upon notice to the insurer, may inquire into the facts, and, if he finds that more than 60 per cent of the premium note was paid in cash at the time of the insurance or

upon the application therefor, he may direct that execution be issued forthwith upon such judgment. R.S.O. 1960, c. 190, s. 136.

## PART V

### LIFE INSURANCE

#### INTERPRETATION

**145.** In this Part,

Interpre-  
tation

- (a) “application” means an application for insurance or for the reinstatement of insurance;
- (b) “beneficiary” means a person, other than the insured or his personal representative, to whom or for whose benefit insurance money is made payable in a contract or by a declaration;
- (c) “contract” means a contract of life insurance;
- (d) “court” means the Supreme Court or a judge thereof;
- (e) “creditor’s group insurance” means insurance effected by a creditor in respect of the lives of his debtors whereby the lives of the debtors are insured severally under a single contract;
- (f) “declaration” means an instrument signed by the insured,
  - (i) with respect to which an endorsement is made on the policy, or
  - (ii) that identifies the contract, or
  - (iii) that describes the insurance or insurance fund or a part thereof,

in which he designates, or alters or revokes the designation of, his personal representative or a beneficiary as one to whom or for whose benefit insurance money is to be payable;

- (g) “family insurance” means insurance whereby the lives of the insured and one or more persons related to him by blood, marriage or adoption are insured under a single contract between an insurer and the insured;
- (h) “group insurance” means insurance, other than creditor’s group insurance and family insurance, whereby the lives of a number of persons are insured severally under a single contract between an insurer and an employer or other person;
- (i) “group life insured” means a person whose life is insured by a contract of group insurance but does not include a

person whose life is insured under the contract as a person dependent upon, or related to, him;

- (j) "instrument" includes a will;
- (k) "insurance" means life insurance;
- (l) "insured",
  - (i) in the case of group insurance, means, in the provisions of this Part relating to the designation of beneficiaries and the rights and status of beneficiaries, the group life insured, and
  - (ii) in all other cases, means the person who makes a contract with an insurer;
- (m) "life insurance" includes disability insurance and accidental death insurance;
- (n) "will" includes a codicil. 1961-62, c. 63, s. 4, *part*.

#### APPLICATION OF PART

**Application** **146.**—(1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to a contract made in Ontario on or after the 1st day of July, 1962, and, subject to subsections 2 and 3, applies to a contract made in Ontario before that day.

**Beneficiary for value** (2) The rights and interests of a beneficiary for value under a contract that was in force immediately prior to the 1st day of July, 1962 are those provided in Part V of *The Insurance Act* as it existed immediately prior to that day.

**Preferred beneficiary** (3) Where the person who would have been entitled to the payment of insurance money, if the money had become payable immediately prior to the 1st day of July, 1962, was a preferred beneficiary within the meaning of Part V of *The Insurance Act* as it existed immediately prior to that day, the insured may not, except in accordance with that Part,

- (a) alter or revoke the designation of a beneficiary; or
- (b) assign, exercise rights under or in respect of, surrender or otherwise deal with the contract,

but this subsection does not apply after a time at which the insurance money, if it were then payable, would be payable wholly to a person other than a preferred beneficiary within the meaning of that Part. 1961-62, c. 63, s. 4, *part, amended*.

**Group insurance** **147.** In the case of a contract of group insurance made with an insurer authorized to transact insurance in Ontario at the time the contract was made, this Part applies in determining,

- (a) the rights and status of beneficiaries if the group life insured was resident in Ontario at the time he became insured; and

- (b) the rights and obligations of the group life insured if he was resident in Ontario at the time he became insured. 1961-62, c. 63, s. 4, *part*.

ISSUANCE OF POLICY AND CONTENTS THEREOF

**148.**—(1) An insurer entering into a contract shall issue a policy. Insurer to issue policy

- (2) Subject to subsection 3, the provisions in, Documents forming contract
  - (a) the application; and
  - (b) the policy; and
  - (c) any document attached to the policy when issued; and
  - (d) any amendment to the contract agreed upon in writing after the policy is issued,

constitute the entire contract.

(3) In the case of a contract made by a fraternal society, the policy, the Act or instrument of incorporation of the society, its constitution, by-laws and rules, and the amendments made from time to time to any of them, the application for the contract and the medical statement of the applicant constitute the entire contract. Contract of fraternal society

(4) An insurer shall, upon request, furnish to the insured or to a claimant under the contract a copy of the application. 1961-62, c. 63, s. 4, *part*. Copy of application

**149.**—(1) This section does not apply to a contract, Exceptions

- (a) of group insurance; or
- (b) of creditor's group insurance; or
- (c) made by a fraternal society.

(2) An insurer shall set forth the following particulars in the policy: Contents of policy

1. The name or a sufficient description of the insured and of the person whose life is insured.
2. The amount, or the method of determining the amount, of the insurance money payable, and the conditions under which it becomes payable.
3. The amount, or the method of determining the amount, of the premium and the period of grace, if any, within which it may be paid.
4. Whether the contract provides for participation in a distribution of surplus or profits that may be declared by the insurer.



5. The conditions upon which the contract may be reinstated if it lapses.
6. The options, if any,
  - (a) of surrendering the contract for cash;
  - (b) of obtaining a loan or an advance payment of the insurance money; and
  - (c) of obtaining paid-up or extended insurance. 1961-62, c. 63, s. 4, *part.*

Contents  
of group  
policy

**150.** In the case of a contract of group insurance or of creditor's group insurance, an insurer shall set forth the following particulars in the policy:

1. The name or a sufficient description of the insured.
2. The method of determining the persons whose lives are insured.
3. The amount, or the method of determining the amount, of the insurance money payable, and the conditions under which it becomes payable.
4. The period of grace, if any, within which the premium may be paid.
5. Whether the contract provides for participation in a distribution of surplus or profits that may be declared by the insurer. 1961-62, c. 63, s. 4, *part.*

Contents  
of group  
certificate

**151.** In the case of a contract of group insurance, an insurer shall issue, for delivery by the insured to each group life insured, a certificate or other document in which are set forth the following particulars:

1. The name of the insurer and an identification of the contract.
2. The amount, or the method of determining the amount, of insurance on the group life insured and on any person whose life is insured under the contract as a person dependent upon, or related to, him.
3. The circumstances in which the insurance terminates and the rights, if any, upon such termination, of the group life insured or of any person whose life is insured under the contract as a person dependent upon, or related to, him. 1961-62, c. 63, s. 4, *part.*

#### CONDITIONS GOVERNING FORMATION OF CONTRACT

Insurable  
interest

**152.**—(1) Subject to subsection 2, where at the time a contract would otherwise take effect the insured has no insurable interest, the contract is void.

(2) A contract is not void for lack of insurable interest, Exceptions

- (a) if it is a contract of group insurance; or
- (b) if the person whose life is insured has consented in writing to the insurance being placed on his life.

(3) Where the person whose life is insured is under the age of sixteen years, consent to insurance being placed on his life may be given by one of his parents or by a person standing *in loco parentis* to him. 1961-62, c. 63, s. 4, *part*. Consent of minor

**153.** Without restricting the meaning of the expression “insurable interest”, a person has an insurable interest in his own life and in the life of, Insurable interest, defined

- (a) his child or grandchild;
- (b) his spouse;
- (c) any person upon whom he is wholly or in part dependent, for, or from whom he is receiving, support or education;
- (d) his employee; and
- (e) any person in the duration of whose life he has a pecuniary interest. 1961-62, c. 63, s. 4, *part*.

**154.**—(1) Subject to any provision to the contrary in the application or the policy, a contract does not take effect unless, Contract taking effect

- (a) the policy is delivered to an insured, his assign or agent, or to a beneficiary;
- (b) payment of the first premium is made to the insurer or its authorized agent; and
- (c) no change has taken place in the insurability of the life to be insured between the time the application was completed and the time the policy was delivered.

(2) Where a policy is issued on the terms applied for and is delivered to an agent of the insurer for unconditional delivery to a person referred to in clause *a* of subsection 1, it shall be deemed, but not to the prejudice of the insured, to have been delivered to the insured. 1961-62, c. 63, s. 4, *part*. Delivery to agent

**155.**—(1) Where a cheque or other bill of exchange, or a promissory note or other written promise to pay, is given for the whole or part of a premium and payment is not made according to its tenor, the premium or part thereof shall be deemed not to have been paid. Default in paying premium

(2) Where a remittance for or on account of a premium is sent in a registered letter to an insurer and is received by it, the remittance shall be deemed to have been received at the time of the registration of the letter. 1961-62, c. 63, s. 4, *part*. Payment by registered letter

Who may  
pay  
premium

**156.**—(1) Except in the case of group insurance, an assignee of a contract, a beneficiary or a person acting on behalf of one of them or of the insured may pay any premium that the insured is entitled to pay.

Period  
of grace

(2) Where a premium, other than the initial premium, is not paid at the time it is due, the premium may be paid within a period of grace of,

- (a) thirty days or, in the case of an industrial contract, twenty-eight days from and excluding the day on which the premium is due; or
- (b) the number of days, if any, specified in the contract for payment of an overdue premium,

whichever is the longer period.

Contract in  
force during  
grace  
period

(3) Where the happening of the event upon which the insurance money becomes payable occurs during the period of grace and before the overdue premium is paid, the contract shall be deemed to be in effect as if the premium had been paid at the time it was due, but the amount of the premium, together with interest at the rate specified in the contract, but not exceeding 6 per cent per annum, and the balance, if any, of the current year's premium, may be deducted from the insurance money. 1961-62, c. 63, s. 4, *part*.

Duty to  
disclose

**157.**—(1) An applicant for insurance and a person whose life is to be insured shall each disclose to the insurer in the application, on a medical examination, if any, and in any written statements or answers furnished as evidence of insurability, every fact within his knowledge that is material to the insurance and is not so disclosed by the other.

Failure to  
disclose

(2) Subject to section 158, a failure to disclose, or a misrepresentation of, such a fact renders the contract voidable by the insurer. 1961-62, c. 63, s. 4, *part*.

Exceptions

**158.**—(1) This section does not apply to a misstatement of age or to disability insurance.

Incontest-  
ability

(2) Subject to subsection 3, where a contract has been in effect for two years during the lifetime of the person whose life is insured, a failure to disclose or a misrepresentation of a fact required to be disclosed by section 157 does not, in the absence of fraud, render the contract voidable.

Incontest-  
ability in  
group  
insurance

(3) In the case of a contract of group insurance, a failure to disclose or a misrepresentation of such a fact in respect of a person whose life is insured under the contract does not render the contract voidable, but, if evidence of insurability is specifically requested by the insurer, the insurance in respect of that person is

voidable by the insurer unless it has been in effect for two years during the lifetime of that person, in which event it is not, in the absence of fraud, voidable. 1961-62, c. 63, s. 4, *part*.

**159.** Where an insurer fails to disclose or misrepresents a fact material to the insurance, the contract is voidable by the insured, but, in the absence of fraud, the contract is not by reason of such failure or misrepresentation voidable after the contract has been in effect for two years. 1961-62, c. 63, s. 4, *part*. Non-disclosure by insurer

**160.**—(1) This section does not apply to a contract of group insurance or of creditor's group insurance. Exceptions

(2) Subject to subsection 3, where the age of a person whose life is insured is misstated to the insurer, the insurance money provided by the contract shall be increased or decreased to the amount that would have been provided for the same premium at the correct age. Misstatement of age

(3) Where a contract limits the insurable age and the correct age of the person whose life is insured at the date of the application exceeds the age so limited, the contract is, during the lifetime of that person but not later than five years from the date the contract takes effect, voidable by the insurer within sixty days after it discovers the error. 1961-62, c. 63, s. 4, *part*. Limitation of insurable age

**161.** In the case of a contract of group insurance or of creditor's group insurance, a misstatement to the insurer of the age of a person whose life is insured does not of itself render the contract voidable, and the provisions, if any, of the contract with respect to age or misstatement of age apply. 1961-62, c. 63, s. 4, *part*. Misstatement of age in group insurance

**162.**—(1) Where a contract contains an undertaking, express or implied, that insurance money will be paid if a person whose life is insured commits suicide, the undertaking is lawful and enforceable. Effect of suicide

(2) Where a contract provides that in case a person whose life is insured commits suicide within a certain period of time the contract is void or the amount payable under it is reduced, if the contract lapses and is subsequently reinstated on one or more occasions, the period of time commences to run from the date of the latest reinstatement. 1961-62, c. 63, s. 4, *part*. Suicide and reinstatement

**163.**—(1) This section does not apply to a contract of group insurance or to a contract made by a fraternal society. Exceptions

(2) Where a contract lapses and the insured within two years applies for reinstatement of the contract, if within that time he, Reinstatement



(a) pays the overdue premiums and other indebtedness under the contract to the insurer, together with interest at the rate specified in the contract, but not exceeding 6 per cent per annum, compounded annually; and

(b) produces,

(i) evidence satisfactory to the insurer of the good health, and

(ii) other evidence satisfactory to the insurer of the insurability,

of the person whose life was insured,

the insurer shall reinstate the contract.

Exceptions

(3) Subsection 2 does not apply where the cash surrender value has been paid or an option of taking paid-up or extended insurance has been exercised.

Application  
of other  
sections

(4) Sections 157 and 158 apply *mutatis mutandis* to reinstatement of a contract. 1961-62, c. 63, s. 4, *part*.

#### DESIGNATION OF BENEFICIARIES

Designation  
of  
beneficiary

**164.**—(1) An insured may in a contract or by a declaration designate his personal representative or a beneficiary to receive insurance money.

Change in  
designation

(2) Subject to section 165, the insured may from time to time alter or revoke the designation by a declaration.

Meaning of  
“heirs”, etc.

(3) A designation in favour of the “heirs”, “next of kin” or “estate” of the insured, or the use of words of like import in a designation, shall be deemed to be a designation of the personal representative of the insured. 1961-62, c. 63, s. 4, *part*.

Designation  
of  
beneficiary  
irrevocably

**165.**—(1) An insured may in a contract, or by a declaration other than a declaration that is part of a will, filed with the insurer at its head or principal office in Canada during the lifetime of the person whose life is insured, designate a beneficiary irrevocably, and in that event the insured, while the beneficiary is living, may not alter or revoke the designation without the consent of the beneficiary and the insurance money is not subject to the control of the insured or of his creditors and does not form part of his estate.

Attempted  
designation

(2) Where the insured purports to designate a beneficiary irrevocably in a will or in a declaration that is not filed as provided in subsection 1, the designation has the same effect as if the insured had not purported to make it irrevocable. 1961-62, c. 63, s. 4, *part*.

**166.**—(1) A designation in an instrument purporting to be a will is not ineffective by reason only of the fact that the instrument is invalid as a will or that the designation is invalid as a bequest under the will. Designation in invalid will

(2) Notwithstanding *The Wills Act*, a designation in a will is of no effect against a designation made later than the making of the will. Priorities R.S.O. 1970, c. 499

(3) Where a designation is contained in a will, if subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked. Revocation

(4) Where a designation is contained in an instrument that purports to be a will, if subsequently the instrument if valid as a will would be revoked by operation of law or otherwise, the designation is thereby revoked. 1961-62, c. 63, s. 4, *part*. Idem

**167.**—(1) An insured may in a contract or by a declaration appoint a trustee for a beneficiary and may alter or revoke the appointment by a declaration. Trustee for beneficiary

(2) A payment made by an insurer to a trustee for a beneficiary discharges the insurer to the extent of the payment. 1961-62, c. 63, s. 4, *part*. Payment to trustee

**168.**—(1) Where a beneficiary predeceases the person whose life is insured, and no disposition of the share of the deceased beneficiary in the insurance money is provided in the contract or by a declaration, the share is payable, Beneficiary predeceasing life insured

- (a) to the surviving beneficiary; or
- (b) if there is more than one surviving beneficiary, to the surviving beneficiaries in equal shares; or
- (c) if there is no surviving beneficiary, to the insured or his personal representative.

(2) Where two or more beneficiaries are designated otherwise than alternatively, but no division of the insurance money is made, the insurance money is payable to them in equal shares. 1961-62, c. 63, s. 4, *part*. Several beneficiaries

**169.** A beneficiary may enforce for his own benefit, and a trustee appointed pursuant to section 167 may enforce as trustee, the payment of insurance money made payable to him in the contract or by a declaration and in accordance with the provisions thereof, but the insurer may set up any defence that it could have set up against the insured or his personal representative. 1961-62, c. 63, s. 4, *part*. Right to sue

Insurance  
money  
free from  
creditors

**170.**—(1) Where a beneficiary is designated, the insurance money, from the time of the happening of the event upon which the insurance money becomes payable, is not part of the estate of the insured and is not subject to the claims of the creditors of the insured.

Contract  
exempt  
from seizure

(2) While a designation in favour of a spouse, child, grandchild or parent of a person whose life is insured, or any of them, is in effect, the rights and interests of the insured in the insurance money and in the contract are exempt from execution or seizure. 1961-62, c. 63, s. 4, *part*.

#### DEALINGS WITH CONTRACT DURING LIFETIME OF INSURED

Insured  
dealing with  
contract

**171.** Where a beneficiary,

- (a) is not designated irrevocably; or
- (b) is designated irrevocably but has attained the age of twenty-one years and consents,

the insured may assign, exercise rights under or in respect of, surrender or otherwise deal with the contract as provided therein or in this Part or as may be agreed upon with the insurer. 1961-62, c. 63, s. 4, *part*.

Insured  
entitled to  
dividends

**172.**—(1) Notwithstanding the designation of a beneficiary irrevocably, the insured is entitled while living to the dividends or bonuses declared on a contract, unless the contract otherwise provides.

Insurer  
may use  
dividends

(2) Unless the insured otherwise directs, the insurer may apply the dividends or bonuses declared on the contract for the purpose of keeping the contract in force. 1961-62, c. 63, s. 4, *part*.

Transfer of  
ownership  
R.S.O. 1970,  
c. 499

**173.**—(1) Notwithstanding *The Wills Act*, where in a contract or in an agreement in writing between an insurer and an insured it is provided that a person named in the contract or in the agreement has, upon the death of the insured, the rights and interests of the insured in the contract,

- (a) the rights and interests of the insured in the contract do not, upon the death of the insured, form part of his estate; and
- (b) upon the death of the insured, the person named in the contract or in the agreement has the rights and interests given to the insured by the contract and by this Part and shall be deemed to be the insured.

Successive  
owners

(2) Where the contract or agreement provides that two or more persons named in the contract or in the agreement shall, upon the death of the insured, have successively, on the death of each of them, the rights and interests of the insured in the

contract, this section applies successively, *mutatis mutandis*, to each of such persons and to his rights and interests in the contract.

(3) Notwithstanding any nomination made pursuant to this section, the insured may, prior to his death, assign, exercise rights under or in respect of, surrender or otherwise deal with the contract as if the nomination had not been made, and may alter or revoke the nomination by agreement in writing with the insurer. 1961-62, c. 63, s. 4, *part*. Saving

**174.**—(1) Where an assignee of a contract gives notice in writing of the assignment to the insurer at its head or principal office in Canada, he has priority of interest as against, Interest of assignee

- (a) any assignee other than one who gave notice earlier in like manner; and
- (b) a beneficiary other than one designated irrevocably as provided in section 165 prior to the time the assignee gave notice to the insurer of the assignment in the manner prescribed in this subsection.

(2) Where a contract is assigned as security, the rights of a beneficiary under the contract are affected only to the extent necessary to give effect to the rights and interests of the assignee. Effect on beneficiary's rights

(3) Where a contract is assigned unconditionally and otherwise than as security, the assignee has all the rights and interests given to the insured by the contract and by this Part and shall be deemed to be the insured. Assignee deemed to be insured

(4) A provision in a contract to the effect that the rights or interests of the insured, or, in the case of group insurance, the group life insured, are not assignable is valid. 1961-62, c. 63, s. 4, *part*. Prohibition against assignment

**175.** A group life insured may in his own name enforce a right given to him under a contract, subject to any defence available to the insurer against him or against the insured. 1961-62, c. 63, s. 4, *part*. Group life insured, enforcing rights

#### MINORS

**176.** Except in respect of his rights as beneficiary, a minor who has attained the age of sixteen years has the capacity of a person of the age of twenty-one years, Capacity of minors

- (a) to make an enforceable contract; and
- (b) in respect of a contract. 1961-62, c. 63, s. 4, *part*.

**177.** A beneficiary who has attained the age of eighteen years has the capacity of a person of the age of twenty-one years to receive insurance money payable to him and to give a discharge therefor. 1961-62, c. 63, s. 4, *part*. Capacity of minor beneficiary



## PROCEEDINGS UNDER CONTRACT

Proof  
of claim

**178.** Where an insurer receives sufficient evidence of,

- (a) the happening of the event upon which insurance money becomes payable;
- (b) the age of the person whose life is insured;
- (c) the right of the claimant to receive payment; and
- (d) the name and age of the beneficiary, if there is a beneficiary,

it shall, within thirty days after receiving the evidence, pay the insurance money to the person entitled thereto. 1961-62, c. 63, s. 4, *part*.

Place of  
payment

**179.**—(1) Subject to subsection 4, insurance money is payable in Ontario.

Dollars

(2) Unless a contract otherwise provides, a reference therein to dollars means Canadian dollars.

Payment  
outside  
Ontario

(3) Where a person entitled to receive insurance money is not domiciled in Ontario, the insurer may pay the insurance money to that person or to any other person who is entitled to receive it on his behalf by the law of the domicile of the payee.

Exception  
for group  
insurance

(4) In the case of a contract of group insurance, insurance money is payable in the province or territory of Canada in which the group life insured was resident at the time he became insured. 1961-62, c. 63, s. 4, *part*.

Action in  
Ontario

**180.** Notwithstanding where a contract was made, an action on it may be brought in a court by a resident of Ontario if the insurer was authorized to transact insurance in Ontario at the time the contract was made or at the time the action is brought. 1961-62, c. 63, s. 4, *part*.

Limitation  
of action

**181.**—(1) Subject to subsection 2, an action or proceeding against an insurer for the recovery of insurance money shall not be commenced more than one year after the furnishing of the evidence required by section 178 or more than six years after the happening of the event upon which the insurance money becomes payable, whichever period first expires.

Exception

(2) Where a declaration has been made under section 184, an action or proceeding to which reference is made in subsection 1 shall not be commenced more than one year after the date of the declaration. 1961-62, c. 63, s. 4, *part*.

Documents  
affecting  
title

**182.**—(1) Until an insurer receives at its head or principal office in Canada an instrument or an order of a court affecting the right to receive insurance money, or a notarial copy, or a copy verified by statutory declaration, of any such instrument or

order, it may make payment of the insurance money and shall be as fully discharged to the extent of the amount paid as if there were no such instrument or order.

(2) Subsection 1 does not affect the rights or interests of any person other than the insurer. 1961-62, c. 63, s. 4, *part*. Saving

**183.** Where an insurer admits the validity of the insurance but does not admit the sufficiency of the evidence required by section 178 and there is no other question in issue except a question under section 184, the insurer or the claimant may, before or after action is brought and upon at least thirty days notice, apply to the court for a declaration as to the sufficiency of the evidence furnished, and the court may make the declaration or may direct what further evidence shall be furnished and on the furnishing thereof may make the declaration or, in special circumstances, may dispense with further evidence. 1961-62, c. 63, s. 4, *part*. Declaration  
as to  
sufficiency  
of proof

**184.** Where a claimant alleges that the person whose life is insured should be presumed to be dead by reason of his not having been heard of for seven years and there is no other question in issue except a question under section 183, the insurer or the claimant may, before or after action is brought and upon at least thirty days notice, apply to the court for a declaration as to presumption of the death and the court may make the declaration. 1961-62, c. 63, s. 4, *part*. Declaration  
as to pre-  
sumption  
of death

**185.**—(1) Upon making a declaration under section 183 or 184, the court may make such order respecting the payment of the insurance money and respecting costs as it deems just and, subject to section 187, a declaration or direction or order made under this subsection is binding upon the applicant and upon all persons to whom notice of the application has been given. Court  
may make  
order

(2) A payment made under an order made under subsection 1 discharges the insurer to the extent of the amount paid. 1961-62, c. 63, s. 4, *part*. Payment  
under  
order

**186.** Unless the court otherwise orders, an application made under section 183 or 184 operates as a stay of any pending action with respect to the insurance money. 1961-62, c. 63, s. 4, *part*. Stay of  
proceedings

**187.** An appeal lies to the Court of Appeal from any declaration, direction or order made under section 183, section 184 or subsection 1 of section 185. 1961-62, c. 63, s. 4, *part*. Appeal

**188.** Where the court finds that the evidence furnished under section 178 is not sufficient or that a presumption of death is not established, it may order that the matters in issue be decided in an action brought or to be brought, or may make such other order as Power  
of court

it deems just respecting further evidence to be furnished by the claimant, publication of advertisements, further inquiry or any other matter or respecting costs. 1961-62, c. 63, s. 4, *part*.

Payment  
into court

**189.** Where an insurer admits liability for insurance money and it appears to the insurer that,

- (a) there are adverse claimants; or
- (b) the whereabouts of a person entitled is unknown; or
- (c) there is no person capable of giving and authorized to give a valid discharge therefor, who is willing to do so,

the insurer may, at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable, apply to the court *ex parte* for an order for payment of the money into court, and the court may upon such notice, if any, as it thinks necessary make an order accordingly. 1961-62, c. 63, s. 4, *part*.

Simul-  
taneous  
deaths

**190.** Unless a contract or a declaration otherwise provides, where the person whose life is insured and a beneficiary die at the same time or in circumstances rendering it uncertain which of them survived the other, the insurance money is payable in accordance with subsection 1 of section 168 as if the beneficiary had predeceased the person whose life is insured. 1961-62, c. 63, s. 4, *part*.

Insurance  
money  
payable in  
instalments

**191.**—(1) Subject to subsections 2 and 3, where insurance money is payable in instalments and a contract, or an instrument signed by the insured and delivered to the insurer, provides that a beneficiary has not the right to commute the instalments or to alienate or assign his interest therein, the insurer shall not, unless the insured subsequently directs otherwise in writing, commute the instalments or pay them to any person other than the beneficiary, and the instalments are not, in the hands of the insurer, subject to any legal process except an action to recover the value of necessities supplied to the beneficiary or his infant children.

Commuta-  
tion by  
beneficiary

(2) A court may, upon the application of a beneficiary and upon at least ten days notice, declare that in view of special circumstances,

- (a) the insurer may, with the consent of the beneficiary, commute instalments of insurance money; or
- (b) the beneficiary may alienate or assign his interest in the insurance money.

Commuta-  
tion after  
death of  
beneficiary

(3) After the death of the beneficiary, his personal representative may, with the consent of the insurer, commute any instalments of insurance money payable to the beneficiary.

(4) In this section, "instalments" includes insurance money held by the insurer under section 192. 1961-62, c. 63, s. 4, *part.* Interpretation

- 192.**—(1) An insurer may hold insurance money, Insurer holding insurance money
- (a) subject to the order of an insured or a beneficiary; or
  - (b) upon trusts or other agreements for the benefit of the insured or the beneficiary,

as provided in the contract, by an agreement in writing to which it is a party, or by a declaration, with interest at a rate agreed upon therein or, where no rate is agreed upon, at the rate declared from time to time by the insurer in respect of insurance money so held by it.

(2) The insurer is not bound to hold insurance money as provided in subsection 1 under the terms of a declaration to which it has not agreed in writing. 1961-62, c. 63, s. 4, *part.* Exception

**193.** Where an insurer does not within thirty days after receipt of the evidence required by section 178 pay the insurance money to some person competent to receive it or into court, the court may, upon application of any person, order that the insurance money or any part thereof be paid into court, or may make such other order as to the distribution of the money as it deems just, and payment made in accordance with the order discharges the insurer to the extent of the amount paid. 1961-62, c. 63, s. 4, *part.* Court may order payment

**194.** The court may fix without taxation the costs incurred in connection with an application or order made under section 189 or 193, and may order them to be paid out of the insurance money or by the insurer or the applicant or otherwise as it deems just. 1961-62, c. 63, s. 4, *part.* Costs

**195.**—(1) Where an insurer admits liability for insurance money payable to a minor and there is no person capable of giving and authorized to give a discharge therefor, who is willing to do so, the insurer may at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable pay the money, less the applicable costs mentioned in subsection 2, into court to the credit of the minor. Where beneficiary a minor

(2) The insurer may retain out of the insurance money for costs incurred upon payment into court under subsection 1 the sum of \$10 where the amount does not exceed \$1,000, and the sum of \$15 in other cases, and payment of the remainder of the money into court discharges the insurer. Costs

(3) No order is necessary for payment into court under subsection 1, but the accountant or other proper officer shall receive the money upon the insurer filing with him an affidavit Procedure



showing the amount payable and the name, date of birth and residence of the minor, and, upon such payment being made, the insurer shall forthwith notify the Official Guardian and deliver to him a copy of the affidavit. 1961-62, c. 63, s. 4, *part*.

Beneficiary  
under  
disability

**196.** Where it appears that a representative of a beneficiary who is under disability may under the law of the domicile of the beneficiary accept payments on behalf of the beneficiary, the insurer may make payment to the representative and any such payment discharges the insurer to the extent of the amount paid. 1961-62, c. 63, s. 4, *part*.

#### MISCELLANEOUS PROVISIONS

Presump-  
tion against  
agency

**197.** No officer, agent or employee of an insurer and no person soliciting insurance, whether or not he is an agent of the insurer, shall, to the prejudice of the insured, be deemed to be the agent of the insured in respect of any question arising out of a contract. 1961-62, c. 63, s. 4, *part*.

Insurer  
giving  
information

**198.** An insurer does not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument that it has received and that affects the insurance money. 1961-62, c. 63, s. 4, *part*.

### PART VI

#### AUTOMOBILE INSURANCE

Interpre-  
tation

**199.** In this Part,

- (a) "contract" means a contract of automobile insurance;
- (b) "insured" means a person insured by a contract whether named or not. 1966, c. 71, s. 11, *part*.

Applica-  
tion of  
Part

**200.**—(1) This Part applies to contracts providing automobile insurance made or renewed in Ontario on or after the 1st day of January, 1969. 1966, c. 71, s. 11, *part*; 1968, c. 58, s. 5, *amended*.

Idem

(2) Part VI of *The Insurance Act* as it existed immediately before the 1st day of January, 1969 continues to apply to contracts of automobile insurance made before that day until the contract expires or is cancelled or renewed. 1966, c. 71, s. 12, *amended*.

Exception

- (3) This Part does not apply to contracts insuring only against,
  - (a) loss of or damage to an automobile while in or on described premises;
  - (b) loss of or damage to property carried in or upon an automobile; or
  - (c) liability for loss of or damage to property carried in or upon an automobile.

(4) This Part does not apply to a contract providing insurance in respect of an automobile not required to be registered under *The Highway Traffic Act* unless it is insured under a contract evidenced by a form of policy approved under this Part. Idem R.S.O. 1970, c. 202

(5) This Part does not apply to a contract insuring solely the interest of a person who has a lien upon, or has as security legal title to, an automobile and who does not have possession of the automobile. 1966, c. 71, s. 11, *part*. Idem

#### APPROVAL OF FORMS

**201.**—(1) No insurer shall use a form of application, policy, endorsement or renewal or continuation certificate in respect of automobile insurance other than a form approved by the Superintendent. Approval of forms by Superintendent

(2) An insurer may require additional information in an approved application form, but such additional information does not constitute part of the application for the purposes of section 204. Insurer requiring additional information

(3) Where, in the opinion of the Superintendent, any provision of this Part, including any statutory condition, is wholly or partly inappropriate to the requirements of a contract or is inapplicable by reason of the requirements of any Act, he may approve a form of policy, or part thereof, or endorsement evidencing a contract sufficient or appropriate to insure the risks required or proposed to be insured, and the contract evidenced by the policy or endorsement in the form so approved is effective and binding according to its terms notwithstanding that those terms are inconsistent with, vary, omit or add to any provision or condition of this Part. Approval of policies in special cases

(4) Except as to matters mentioned in section 214, the Superintendent may, if he considers it to be in the public interest, approve a form of motor vehicle liability policy or endorsement thereto that extends the insurance beyond that prescribed in this Part. Approval of extensions

(5) The Superintendent, in granting an approval under subsection 4, may require the insurer to charge an additional premium for the extension and to state that fact in the policy or in any endorsement. Condition of approval of extension

(6) The Superintendent may revoke an approval given under this section, and, upon notification of the revocation in writing, no insurer shall thereafter use or deliver a form that contravenes the notification. Revocation of approval

(7) The Superintendent shall, on request of any interested insurer, specify in writing his reasons for granting, refusing or revoking an approval of a form. Reason for decision

Insurance  
card

(8) An insurer that issues or delivers an owner's policy in Ontario, or any renewal thereof, or any evidence of the continuation of the policy, shall issue to the insured a card evidencing the insurance, and the card shall be in a form approved by the Superintendent. 1966, c. 71, s. 11, *part*.

#### APPLICATION AND POLICY

Persons for-  
bidden to  
act as agent

**202.** No person carrying on the business of financing the sale or purchase of automobiles and no automobile dealer, insurance agent or broker and no officer or employee of such a person, dealer, agent or broker shall act as the agent of an applicant for the purpose of signing an application for automobile insurance. 1966, c. 71, s. 11, *part*.

Copy of  
application  
in policy

**203.**—(1) A copy of the written application, signed by the insured or his agent, or, if no signed application is made, a copy of the purported application, or a copy of such part of the application or purported application as is material to the contract, shall be embodied in, endorsed upon or attached to the policy when issued by the insurer.

Policy  
issued where  
no signed  
application

(2) If no signed written application is received by the insurer prior to the issue of the policy, the insurer shall deliver or mail to the insured named in the policy, or to the agent for delivery or mailing to the insured, a form of application to be completed and signed by the insured and returned to the insurer.

Insured  
entitled to  
copy

(3) The insurer shall deliver or mail to the insured named in the policy, or to the agent for delivery or mailing to the insured, the policy or a true copy thereof and every endorsement or other amendment to the contract.

Form of  
policy

(4) Where a written application signed by the insured or his agent is made for a contract, the policy evidencing the contract shall be deemed to be in accordance with the application unless the insurer points out in writing to the insured named in the policy in what respect the policy differs from the application, and, in that event, the insured shall be deemed to have accepted the policy unless within one week from the receipt of the notification he informs the insurer in writing that he rejects the policy.

Endorse-  
ment on  
forms

(5) Upon every application form and policy, there shall be printed or stamped in conspicuous type a copy of subsection 1 of section 204. 1966, c. 71, s. 11, *part*.

Misrepresen-  
tation or  
violation of  
conditions  
renders  
claim  
invalid

**204.**—(1) Where,

(a) an applicant for a contract,

(i) gives false particulars of the described automobile to be insured to the prejudice of the insurer, or

(ii) knowingly misrepresents or fails to disclose in the application any fact required to be stated therein;

- (b) the insured contravenes a term of the contract or commits a fraud; or
- (c) the insured wilfully makes a false statement in respect of a claim under the contract,

a claim by the insured is invalid and the right of the insured to recover indemnity is forfeited.

(2) No statement of the applicant shall be used in defence of a claim under the contract unless it is contained in the signed written application therefor or, where no signed written application is made, in the purported application, or part thereof, that is embodied in, endorsed upon or attached to the policy. Use of application as defence

(3) No statement contained in a purported copy of the application, or part thereof, other than a statement describing the risk and the extent of the insurance, shall be used in defence of a claim under the contract unless the insurer proves that the applicant made the statement attributed to him in the purported application, or part thereof. 1966, c. 71, s. 11, *part*. Idem

**205.**—(1) Subject to subsection 3 of section 201, section 206 and section 228, Statutory conditions

- (a) the conditions set forth in this section are statutory conditions and shall be deemed to be part of every contract and shall be printed in every policy with the heading “Statutory Conditions”; and
- (b) no variation or omission of or addition to a statutory condition is binding on the insured. 1966, c. 71, s. 11, *part*.

(2) In this section, “policy” does not include an interim receipt or binder. Interpretation

### STATUTORY CONDITIONS

In these statutory conditions, unless the context otherwise requires, the word “insured” means a person insured by this contract whether named or not.

**Material Change in Risk** **1.**—(1) The insured named in this contract shall promptly notify the insurer or its local agent in writing of any change in the risk material to the contract and within his knowledge.

(2) Without restricting the generality of the foregoing, the words “change in the risk material to the contract” include:

- (a) any change in the insurable interest of the insured named in this contract in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy Act* (Canada);

and in respect of insurance against loss of or damage to the automobile,

- (b) any mortgage, lien or encumbrance affecting the automobile after the application for this contract;
- (c) any other insurance of the same interest, whether valid or not, covering loss or damage insured by this contract or any portion thereof.



**Prohibited Use  
by Insured**

**2.—**(1) The insured shall not drive or operate the automobile,

- (a) while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or
- (b) unless he is for the time being either authorized by law or qualified to drive or operate the automobile; or
- (c) while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or
- (d) while he is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or
- (e) for any illicit or prohibited trade or transportation; or
- (f) in any race or speed test.

**Prohibited Use  
by Others**

(2) The insured shall not permit, suffer, allow or connive at the use of the automobile,

- (a) by any person under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or
- (b) by any person,
  - (i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile; or
  - (ii) while that person is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or
- (c) by any person who is a member of the household of the insured while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or
- (d) for any illicit or prohibited trade or transportation; or
- (e) in any race or speed test.

**Requirements  
Where Loss  
or Damage to  
Persons or  
Property**

**3.—**(1) The insured shall,

- (a) promptly give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property and of any claim made on account of the accident;
  - (b) verify by statutory declaration, if required by the insurer, that the claim arose out of the use or operation of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured under this contract; and
  - (c) forward immediately to the insurer every letter, document, advice or writ received by him from or on behalf of the claimant.
- (2) The insured shall not,
- (a) voluntarily assume any liability or settle any claim except at his own cost; or
  - (b) interfere in any negotiations for settlement or in any legal proceeding.

(3) The insured shall, whenever requested by the insurer, aid in securing information and evidence and the attendance of any witness and shall co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

**Requirements  
Where Loss  
or Damage to  
Automobile**

4.—(1) Where loss of or damage to the automobile occurs, the insured shall, if the loss or damage is covered by this contract,

- (a) promptly give notice thereof in writing to the insurer with the fullest information obtainable at the time;
- (b) at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage; and
- (c) deliver to the insurer within ninety days after the date of the loss or damage a statutory declaration stating, to the best of his knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the automobile and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

(2) Any further loss or damage accruing to the automobile directly or indirectly from a failure to protect it as required under subcondition 1 of this condition is not recoverable under this contract.

(3) No repairs, other than those that are immediately necessary for the protection of the automobile from further loss or damage, shall be undertaken and no physical evidence of the loss or damage shall be removed,

- (a) without the written consent of the insurer; or
- (b) until the insurer has had a reasonable time to make the examination for which provision is made in statutory condition 5.

**Examination  
of Insured**

(4) The insured shall submit to examination under oath, and shall produce for examination at such reasonable place and time as is designated by the insurer or its representative

all documents in his possession or control that relate to the matters in question, and he shall permit extracts and copies thereof to be made.

**Insurer Liable  
for Cash Value  
of Automobile**

(5) The insurer shall not be liable for more than the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to that actual cash value with proper

deduction for depreciation, however caused, and shall not exceed the amount that it would cost to repair or replace the automobile, or any part thereof, with material of like kind and quality, but, if any part of the automobile is obsolete and out of stock, the liability of the insurer in respect thereof shall be limited to the value of that part at the time of loss or damage, not exceeding the maker's latest list price.

**Repair or  
Replacement**

(6) Except where an appraisal has been made, the insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost with

other of like kind and quality if, within seven days after the receipt of the proof of loss, it gives written notice of its intention to do so.

**No Abandonment; Salvage**

(7) There shall be no abandonment of the automobile to the insurer without the insurer's consent. If the insurer exercises the option to replace the automobile or pays the

actual cash value of the automobile, the salvage, if any, shall vest in the insurer.

**In Case of  
Disagreement**

(8) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect

of any loss or damage, those questions shall be determined by appraisal as provided under *The Insurance Act* before there can be recovery under this contract, whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

**Inspection of  
Automobile**

5. The insured shall permit the insurer at all reasonable times to inspect the automobile and its equipment.

**Time and  
Manner of  
Payment of  
Insurance  
Money**

6.—(1) The insurer shall pay the insurance money for which it is liable under this contract within sixty days after the proof of loss has been received by it or, where an appraisal is made under subcondition 8 of statutory condition 4, within fifteen days after the award is rendered by the appraisers.

**When Action  
May be Brought**

(2) The insured shall not bring an action to recover the amount of a claim under this contract unless the requirements of statutory conditions 3 and 4 are complied with or until the amount of the loss has been ascertained as therein provided or by a judgment against the insured after trial of the issue or by agreement between the parties with the written consent of the insurer.

**Limitation of  
Actions**

(3) Every action or proceeding against the insurer under this contract in respect of loss or damage to the automobile shall be commenced within one year next after the happening of the loss and not afterwards, and in respect of loss or damage to persons or property shall be commenced within one year next after the cause of action arose and not afterwards.

**Who May Give  
Notice and  
Proofs of Claim**

7. Notice of claim may be given and proofs of claim may be made by the agent of the insured named in this contract in case of absence or inability of the insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for or, in the like case or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

**Termination**

8.—(1) This contract may be terminated,

- (a) by the insurer giving to the insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered;
- (b) by the insured at any time on request.

(2) Where this contract is terminated by the insurer,

- (a) the insurer shall refund the excess of premium actually paid by the insured over the *pro rata* premium for the expired time, but in no event shall the *pro rata* premium for the expired time be deemed to be less than any minimum retained premium specified; and
- (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to the amount, in which case the refund shall be made as soon as practicable.

(3) Where this contract is terminated by the insured, the insurer shall refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.

(4) The refund may be made by money, postal or express company money order or cheque payable at par.

(5) The fifteen days mentioned in clause *a* of subcondition 1 of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

**Notice**

9. Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Province. Written notice may be given to the insured named in this contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada.

1966, c. 71, s. 11, *part*; 1967, c. 40, s. 2; 1968-69, c. 53, s. 10; 1970, c. 134, s. 13.

**206.**—(1) Except as otherwise provided in the contract, the statutory conditions set forth in section 205 do not apply to insurance coming within section 230, 231 or 232. 1966, c. 71, s. 11, *part*; 1967, c. 40, s. 3. Exceptions respecting statutory conditions

(2) Where a contract does not insure against liability for loss or damage to persons and property, statutory condition 3 in section 205 is not a part of the policy and may be omitted from the printing of the conditions in the policy. Idem

(3) Where a contract does not insure against loss of or damage to the automobile, statutory condition 4 in section 205 is not a part of the policy and may be omitted from the printing of the conditions in the policy. 1966, c. 71, s. 11, *part*. Idem

#### MOTOR VEHICLE LIABILITY POLICIES

**207.**—(1) Every contract evidenced by an owner's policy insures the person named therein and every other person who with his consent personally drives an automobile owned by the insured named in the contract and within the description or definition thereof in the contract against liability imposed by law upon the insured named in the contract or that other person for loss or damage, Coverage of owner's policy, specific automobile

- (a) arising from the ownership, use or operation of any such automobile; and
- (b) resulting from bodily injury to or the death of any person, and damage to property.

(2) Where the contract evidenced by an owner's policy also provides insurance against liability in respect of an automobile not owned by the insured named in the contract, an insurer may stipulate in the contract that the insurance is restricted to such persons as are specified in the contract. Idem, other automobiles

(3) Where the insured named in an owner's policy dies, the following persons shall be deemed to be the insured under the policy: Death of person named in owner's policy

1. The spouse of the deceased insured if residing in the same dwelling premises at the time of his death.
2. In respect of the described automobile, a newly-acquired automobile that was acquired by the deceased insured prior to his death and a temporary substitute automobile, all as defined by the policy,
  - i. any person having proper temporary custody thereof until grant of probate or administration to the personal representative of the deceased insured,
  - ii. the personal representative of the deceased insured. 1966, c. 71, s. 11, *part*.



Coverage of  
non-owner's  
policy

**208.** Every contract evidenced by a non-owner's policy insures the person named therein and such other person, if any, as is specified in the policy against liability imposed by law upon the insured named in the contract or that other person for loss or damage,

- (a) arising from the use or operation of an automobile within the definition thereof in the policy, other than an automobile owned by him or registered in his name; and
- (b) resulting from bodily injury to or the death of any person, and damage to property. 1966, c. 71, s. 11, *part.*

Persons  
deemed not  
owners

**209.** For the purposes of this Part, a person shall not be deemed to be the owner of an automobile for the reason only that he has a lien on the automobile or has legal title to the automobile as security. 1966, c. 71, s. 11, *part.*

Territorial  
limits

**210.** Insurance under sections 207 and 208 applies to the ownership, use or operation of the insured automobile within Canada and the United States of America and upon a vessel plying between ports of those countries. 1966, c. 71, s. 11, *part.*

Rights of  
unnamed  
insured

**211.** Any person insured by but not named in a contract to which section 207 or 208 applies may recover indemnity in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor. 1966, c. 71, s. 11, *part.*

Additional  
agreements

**212.** Every contract evidenced by a motor vehicle liability policy shall provide that, where a person insured by the contract is involved in an accident resulting from the ownership, use or operation of an automobile in respect of which insurance is provided under the contract and resulting in loss or damage to persons or property, the insurer shall,

- (a) upon receipt of notice of loss or damage caused to persons or property, make such investigations, conduct such negotiations with the claimant and effect such settlement of any resulting claims as are deemed expedient by the insurer;
- (b) defend in the name and on behalf of the insured and at the cost of the insurer any civil action that is at any time brought against the insured on account of loss or damage to persons or property;
- (c) pay all costs taxed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment upon that part of the judgment that is within the limits of the insurer's liability; and

- (d) where the injury is to a person, reimburse the insured for outlay for such medical aid as is immediately necessary at the time. 1966, c. 71, s. 11, *part*.

**213.** Liability arising from contamination of property carried in an automobile shall not be deemed to be liability arising from the ownership, use or operation of such automobile. 1970, c. 134, s. 14, *part*.

Liability  
from  
ownership

**214.** The insurer is not liable under a contract evidenced by a motor vehicle liability policy for any liability,

Exceptions  
from  
liability

- (a) imposed by any workmen's compensation law upon any person insured by the contract;
- (b) resulting from bodily injury to or the death of,
  - (i) the daughter, son, wife or husband of any person insured by the contract while being carried in or upon or entering or getting on to or alighting from the automobile, or
  - (ii) any person insured by the contract; or
- (c) resulting from bodily injury to or the death of any employee of any person insured by the contract while engaged in the operation or repair of the automobile. 1966, c. 71, s. 11, *part*.

**215.** The insurer may provide under a contract evidenced by a motor vehicle liability policy, in either or both of the following cases, that it shall not be liable,

Idem

- (a) to indemnify any person engaged in the business of selling, repairing, maintaining, servicing, storing or parking automobiles for any loss or damage sustained while engaged in the use or operation of or while working upon the automobile in the course of that business unless the person is the owner of the automobile or is his employee;
- (b) for loss of or damage to property carried in or upon the automobile or to any property owned or rented by or in the care, custody or control of the insured. 1966, c. 71, s. 11, *part*.

**216.** Subject to the limitations and exclusions of the endorsement, the insurer may provide by endorsement to a contract evidenced by a motor vehicle liability policy, in either or both of the following cases, that it shall not be liable for loss or damage,

Idem

- (a) resulting from bodily injury to or the death of any person being carried in or upon or entering or getting on to or alighting from the automobile;

- (b) resulting from the ownership, use or operation of any machinery or apparatus, including its equipment, mounted on or attached to the automobile while such automobile is at the site of the use or operation of that machinery or apparatus. 1966, c. 71, s. 11, *part*.

Idem

**217.**—(1) The insurer may provide under a contract evidenced by a motor vehicle liability policy, in one or more of the following cases, that it shall not be liable while,

- (a) the automobile is rented or leased to another person;
- (b) the automobile is used to carry explosives or to carry radioactive material for research, education, development or industrial purposes or for purposes incidental thereto;
- (c) the automobile is used as a taxi-cab, public omnibus, livery, jitney or sightseeing conveyance or for carrying passengers for compensation or hire;
- (d) where the insured vehicle is an automobile, other than a trailer, it is used for towing a trailer owned by the insured unless like indemnity is also provided by the insurer in respect of the trailer;
- (e) where the insured vehicle is a trailer, it is towed by an automobile owned by the insured unless like indemnity is also provided by the insurer in respect of the automobile.

Interpretation

- (2) In clause *b* of subsection 1, “radioactive material” means,
  - (a) spent nuclear fuel rods that have been exposed to radiation in a nuclear reactor;
  - (b) radioactive waste material;
  - (c) unused enriched nuclear fuel rods; or
  - (d) any other radioactive material of such quantity and quality as to be harmful to persons or property if its container were destroyed or damaged.

Exception

- (3) Clause *a* of subsection 1 does not include the use by an employee of his automobile on the business of his employer and for which he is paid.

Certain rules excepted

- (4) Clause *c* of subsection 1 does not include,
  - (a) the use by a person of his automobile for the carriage of another person in return for the former’s carriage in the automobile of the latter;
  - (b) the occasional and infrequent use by a person of his automobile for the carriage of another person who shares the cost of the trip;

- (c) the use by a person of his automobile for the carriage of a temporary or permanent domestic servant of the insured or his spouse; or
- (d) the use by a person of his automobile for the carriage of a client or customer or a prospective client or customer. 1966, c. 71, s. 11, *part*.

**218.**—(1) Every contract evidenced by a motor vehicle liability policy insures, in respect of any one accident, to the limit of at least \$50,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property. 1966, c. 71, s. 11, *part*; 1968-69, c. 53, s. 11 (1). Minimum liability under policy

(2) The contract shall be interpreted to mean that where, by reason of any one accident, liability results from bodily injury or death and from loss of or damage to property, Priorities

- (a) claims against the insured arising out of bodily injury or death have priority to the extent of \$45,000 over claims arising out of loss of or damage to property; and
- (b) claims against the insured arising out of loss of or damage to property have priority to the extent of \$5,000 over claims arising out of bodily injury or death. 1966, c. 71, s. 11, *part*; 1968-69, c. 53, s. 11 (2).

(3) The insurer may, instead of specifying a limit in the policy for an inclusive amount, specify a limit of liability of at least \$50,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and a limit of liability of at least \$50,000, exclusive of interest and costs, against liability for loss of or damage to property. 1966, c. 71, s. 11, *part*; 1968-69, c. 53, s. 11 (3). Minimum limits where separate limits designated

(4) Nothing in this Part precludes an insurer, with respect to a limit or limits in excess of those specified in subsection 1 or 3, from increasing or reducing the limit or limits specified in the contract with respect to the use or operation of the automobile by a named person, but no reduction is effective for a limit less than that required under subsection 1 or 3. 1966, c. 71, s. 11, *part*. Variation of limits

**219.**—(1) Every motor vehicle liability policy issued in Ontario shall provide that, in the case of liability arising out of the ownership, use or operation of the automobile in any province or territory of Canada, Stipulation in motor vehicle liability policy

- (a) the insurer shall be liable up to the minimum limits prescribed for that province or territory if those limits are higher than the limits prescribed by the policy;
- (b) the insurer shall not set up any defence to a claim that might not be set up if the policy were a motor vehicle liability policy issued in that province or territory; and



- (c) the insured, by acceptance of the policy, constitutes and appoints the insurer his irrevocable attorney to appear and defend in any province or territory of Canada in which an action is brought against the insured arising out of the ownership, use or operation of the automobile.

Power of  
attorney  
binding

(2) A provision in a motor vehicle liability policy in accordance with clause *c* of subsection 1 is binding on the insured. 1966, c. 71, s. 11, *part*.

Excess  
insurance

**220.**—(1) Nothing in this Part precludes an insurer from providing insurance under a contract evidenced by a motor vehicle liability policy restricted to a limit in excess of that provided by another designated contract evidenced by a motor vehicle liability policy, whether the designated contract is a first loss insurance or an excess insurance.

Termination  
of excess  
insurance

(2) Where the contract designated in the excess contract terminates or is terminated, the excess contract is also automatically terminated. 1966, c. 71, s. 11, *part*.

Agreement  
for partial  
payment of  
claim by  
insured

**221.** Nothing in this Part precludes an insurer from entering into an agreement with its insured under a contract evidenced by a motor vehicle liability policy providing that the insured will reimburse the insurer in an agreed amount in respect of any claim by or judgment in favour of a third party against the insured, and the agreement may be enforced against the insured according to its tenor. 1966, c. 71, s. 11, *part*.

Interpre-  
tation

R.S.C. 1952,  
c. 11

**222.**—(1) In this section, “nuclear energy hazard” means the radioactive, toxic, explosive or other hazardous properties of prescribed substances under the *Atomic Energy Control Act* (Canada).

Liability  
when  
nuclear  
energy con-  
tract also  
in force

(2) Where an insured is covered, whether named therein or not, under a contract evidenced by a motor vehicle liability policy for loss or damage resulting from bodily injury to or the death of any person or damage to property arising directly or indirectly out of a nuclear energy hazard and is also covered, whether named therein or not, against such loss or damage under a contract evidenced by a policy of nuclear energy hazard liability insurance issued by a group of insurers and in force at the time of the event giving rise to the loss or damage,

- (a) the motor vehicle liability insurance is excess to the nuclear energy hazard liability insurance, and the insurer under the contract of motor vehicle liability insurance is not liable to pay beyond the minimum limits prescribed by section 218; and
- (b) the unnamed insured under the contract of nuclear energy liability insurance may, in respect of such loss or

damage, recover indemnity under that contract in the same manner and to the same extent as if named therein as the insured, and for that purpose he shall be deemed to be a party to the contract and to have given consideration therefor.

(3) For the purpose of this section, a contract of nuclear energy hazard liability insurance shall be deemed to be in force at the time of the event giving rise to the loss or damage, notwithstanding that the limits of liability thereunder have been exhausted. 1966, c. 71, s. 11, *part*.

When contract deemed in force

**223.**—(1) Where an insurer makes a payment on behalf of an insured under a contract evidenced by a motor vehicle liability policy to a person who is or alleges himself to be entitled to recover from the insured covered by the policy, the payment constitutes, to the extent of the payment, a release by the person or his personal representative of any claim that the person or his personal representative or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insured and the insurer.

Advance payments and release by claimant

R.S.O. 1970, c. 164

(2) Nothing in this section precludes the insurer making the payment from demanding, as a condition precedent to such payment, a release from the person or his personal representative or any other person to the extent of such payment.

Idem

(3) Where the person commences an action, the court shall adjudicate upon the matter first without reference to the payment but in giving judgment the payment shall be taken into account and the person shall only be entitled to judgment for the net amount, if any.

Payment to be taken into account

(4) The intention of this section is to permit payments to a claimant without prejudice to the defendant or his insurer, either as an admission of liability or otherwise, and the fact of any payment shall not be disclosed to the judge or jury until after judgment but before formal entry thereof. 1970, c. 134, s. 14, *part*.

Intention

**224.**—(1) Where a person is insured under more than one contract evidenced by a motor vehicle liability policy, whether the insurance is first loss insurance or excess, and a question arises under clause *b* of section 212 between an insurer and the insured or between the insurers as to which insurer shall undertake the obligation to defend in the name and on behalf of the insured, whether or not any insurer denies liability under its contract, the insured or any insurer may apply to the Supreme Court, and the court shall give such directions as may appear proper with respect to the performance of the obligation.

Defence where more than one contract

Hearing (2) On an application under subsection 1, the only parties entitled to notice thereof and to be heard thereon are the insured and his insurers, and no material or evidence used or taken upon such an application is admissible upon the trial of an action brought against the insured for loss or damage to persons or property arising out of the use or operation of the automobile in respect of which the insurance is provided.

Order (3) An order under subsection 1 does not affect the rights and obligations of the insurers in respect of payment of any indemnity under their respective policies.

Contribution (4) Where indemnity is provided to the insured under two or more contracts and one or more of them are excess insurance, the insurers shall, as between themselves, contribute to the payment of expenses, costs and reimbursement for which provision is made in section 212 in accordance with their respective liabilities for damages awarded against the insured. 1966, c. 71, s. 11, *part*.

Application of insurance money under motor vehicle liability policy **225.**—(1) Any person who has a claim against an insured for which indemnity is provided by a contract evidenced by a motor vehicle liability policy, notwithstanding that such person is not a party to the contract, may, upon recovering a judgment therefor in any province or territory of Canada against the insured, have the insurance money payable under the contract applied in or towards satisfaction of his judgment and of any other judgments or claims against the insured covered by the contract and may, on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

Limitation (2) No action shall be brought against an insurer under subsection 1 after the expiration of one year from the final determination of the action against the insured, including appeals if any.

Other creditors excluded (3) A creditor of the insured is not entitled to share in the insurance money payable under any contract unless his claim is one for which indemnity is provided for by that contract. 1966, c. 71, s. 11, *part*.

Insurer absolutely liable (4) The right of a person who is entitled under subsection 1 to have insurance money applied upon his judgment or claim is not prejudiced by,

- (a) an assignment, waiver, surrender, cancellation or discharge of the contract, or of any interest therein or of the proceeds thereof, made by the insured after the happening of the event giving rise to a claim under the contract;
- (b) any act or default of the insured before or after that event in contravention of this Part or of the terms of the contract; or

- (c) any contravention of the *Criminal Code* (Canada) or a statute of any province or territory of Canada or of any state or the District of Columbia of the United States of America by the owner or driver of the automobile, 1953-54, c. 51 (Can.)

and nothing mentioned in clause *a*, *b* or *c* is available to the insurer as a defence in an action brought under subsection 1. 1966, c. 71, s. 11, *part*; 1967, c. 40, s. 4.

(5) It is not a defence to an action under this section that an instrument issued as a motor vehicle liability policy by a person engaged in the business of an insurer and alleged by a party to the action to be such a policy is not a motor vehicle liability policy, and this section applies *mutatis mutandis* to the instrument. Section applicable to purported policy

(6) The insurer may require any other insurers liable to indemnify the insured in whole or in part in respect of judgments or claims to which reference is made in subsection 1 to be made parties to the action and contribute according to their respective liabilities, whether the contribution is rateably or by way of first loss or excess insurance, as the case may be, and the insured shall on demand furnish the insurer with particulars of all other insurance covering the subject-matter of the contract. Contribution among insurers

(7) Where any person has recovered a judgment against the insured and is entitled to bring action under subsection 1, and the insurer admits liability to pay the insurance money under the contract and the insurer considers that, Payment into court

(a) there are or may be other claimants; or

(b) there is no person capable of giving and authorized to give a valid discharge for payment who is willing to do so,

the insurer may apply to the court *ex parte* for an order for payment of the money into court, and the court may, upon such notice, if any, as it thinks necessary, make an order accordingly.

(8) The receipt of the proper officer of the court is sufficient discharge to the insurer for the insurance money paid into court under subsection 7, and the insurance money shall be dealt with as the court may order upon application of any person interested therein. Effect of order

(9) Notwithstanding anything contained therein to the contrary, every contract evidenced by a motor vehicle liability policy shall, for the purposes of this section, be deemed to provide all the types of coverage mentioned in section 217, but the insurer is not liable to a claimant, Defence to passenger claim and re excess limits relating to section 217 coverage

(a) where the claim results from bodily injury to or the death of any person being carried in or upon or entering or getting on to or alighting from the automobile; or

(b) with respect to such coverage in excess of the limits mentioned in section 218.



Defence  
where  
coverage  
under  
ss. 215, 216

(10) Where one or more contracts provide for coverage of a type mentioned in section 215 or 216, except as provided in subsection 12, the insurer may,

- (a) with respect to that type of coverage; and
- (b) as against a claimant,

avail itself of any defence that it is entitled to set up against the insured, notwithstanding subsection 4.

Defence  
where excess  
limits

(11) Where one or more contracts provide for coverage in excess of the limits mentioned in section 218, except as provided in subsection 12, the insurer may,

- (a) with respect to the coverage in excess of those limits; and
- (b) as against a claimant,

avail itself of any defence that it is entitled to set up against the insured, notwithstanding subsection 4.

Defence  
where  
vehicle  
used in  
business of  
carrying  
passengers

(12) Where a contract provides coverage of the type mentioned in clause *a* of section 216 in respect of an automobile operated in the business of carrying passengers for compensation or hire and insured for that purpose, the insurer may,

- (a) with respect to that type of coverage; and
- (b) as against a claimant,

only avail itself of a defence that it is entitled to set up against the insured in respect of that part of the coverage, if any, that exceeds,

- (c) the limits mentioned in section 218; or
- (d) the minimum limits required for that type of coverage by or under any other Act,

whichever is the greater.

Insured's  
liability  
to reimburse  
insurer

(13) The insured shall reimburse the insurer upon demand in the amount that the insurer has paid by reason of this section and that it would not otherwise be liable to pay.

Insurer may  
be made  
third party

(14) Where an insurer denies liability under a contract evidenced by a motor vehicle liability policy, it shall, upon application to the court, be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action in which it is or might be asserted that indemnity is provided by the contract, whether or not the insured enters an appearance or defence in the action.

Rights of  
insurer

(15) Upon being made a third party, the insurer may,

- (a) contest the liability of the insured to any party claiming against the insured;

- (b) contest the amount of any claim made against the insured;
- (c) deliver any pleadings in respect of the claim of any party claiming against the insured;
- (d) have production and discovery from any party adverse in interest; and
- (e) examine and cross-examine witnesses at the trial,

to the same extent as if it were a defendant in the action.

(16) An insurer may avail itself of subsection 15 notwithstanding that another insurer is defending in the name and on behalf of the insured an action to which its insured is a party. 1966, c. 71, s. 11, *part*.

**226.**—(1) Every insured against whom an action is commenced for damages occasioned by an automobile shall give notice thereof in writing to the insurer within five days after service of every notice or process in the action.

Insured to  
give notice  
of action

(2) Every insured against whom an action is commenced for damages occasioned by an automobile shall, upon recovery of a judgment against the insured, disclose to a judgment creditor entitled to the benefit of any motor vehicle liability policy particulars of such contract within ten days after written demand therefor. 1966, c. 71, s. 11, *part*.

Insured to  
disclose  
insurance

#### PHYSICAL DAMAGE COVER

**227.** Subject to subsection 1 of section 201, the insurer may provide in a contract such exclusions and limitations, in respect of loss of or damage to or the loss of use of the automobile, as it considers necessary. 1966, c. 71, s. 11, *part*.

Stipulations  
in physical  
damage  
cover

**228.**—(1) A contract or part of a contract providing insurance against loss of or damage to an automobile and the loss of use thereof may contain a clause to the effect that, in the event of loss, the insurer shall pay only,

Partial pay-  
ment of loss  
clause

- (a) an agreed portion of any loss that may be sustained; or
- (b) the amount of the loss after deduction of a sum specified in the policy,

and in either case not exceeding the amount of the insurance.

(2) Where a clause is inserted in accordance with subsection 1, there shall be printed or stamped upon the face of the policy in conspicuous type the words: "This policy contains a partial payment of loss clause." 1966, c. 71, s. 11, *part*.

Stamping  
required

Claims to  
be adjusted  
with  
insured

**229.**—(1) Where a claim is made under any contract other than a contract evidenced by a motor vehicle liability policy, the insurer shall, notwithstanding any agreement, adjust the amount of the claim with the insured named in the contract as well as with any person having an interest indicated in the contract.

Exception

(2) Where notice is given or proof of loss is made by a person other than the insured, because the insured cannot be located or neglects or refuses or is unable to give notice and make claim under statutory conditions 4 and 7 in section 205, the insurer may, notwithstanding subsection 1 but in any event not earlier than sixty days from delivery of the proof required under clause *c* of subcondition 1 of said statutory condition 4, adjust and pay the claim to the other person having an interest indicated in the contract. 1966, c. 71, s. 11, *part*.

#### LIMITED ACCIDENT INSURANCES

Uninsured  
motorist  
cover

**230.**—(1) Where an insurer provides in a contract insurance against loss resulting from bodily injury to or the death of a person insured arising out of an accident involving an automobile where,

- (a) there is legal liability of another person for the injury or death; and
- (b) the other person has no insurance against his liability therefor or that person cannot be identified,

that insurance applies only in respect of,

- (c) any person who sustains bodily injury or death while driving, being carried in or upon or entering or getting on to or alighting from the described automobile in respect of which insurance of the class mentioned in clause *a* of paragraph 9 of section 1 is provided under the contract; and
- (d) the insured named in the contract and his or her spouse and any dependent relative residing in the same dwelling premises as the insured named in the contract who sustains bodily injury or death while driving, being carried in or upon or entering or getting on to or alighting from or as a result of being struck by any other automobile that is defined in the contract for the purposes of that insurance.

Limited  
application  
R.S.O. 1970,  
c. 281

(2) The insurance mentioned in subsection 1 does not apply in respect of a person specified therein who has a right of recovery under *The Motor Vehicle Accident Claims Act* or similar legislation of any other province or territory of Canada or of any state or the District of Columbia of the United States of America. 1966, c. 71, s. 11, *part*.

**231.**—(1) Where in a contract an insurer provides insurance against expenses for medical, surgical, dental, ambulance, hospital, professional nursing or funeral services, the insurance applies only in respect of reasonable expenses, Medical expense coverage

- (a) of or incurred for any person who sustains bodily injury or death while driving or being carried in or upon or entering or getting on to or alighting from or, if not the occupant of another automobile, as a result of being struck by an automobile owned by the insured named in the contract in respect of which insurance of the class mentioned in clause *a* of paragraph 9 of section 1 is provided under the contract; and
- (b) of the insured named in the contract and his or her spouse and any dependent relative residing in the same dwelling premises as the insured named in the contract who sustains bodily injury or death while driving or being carried in or upon or entering or getting on to or alighting from or as a result of being struck by any other automobile that is defined in the contract for the purposes of that insurance. 1966, c. 71, s. 11, *part*.

(2) Where an insurer makes a payment under a contract of insurance referred to in subsection 1, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection 1, but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person. 1966, c. 71, s. 11, *part*; 1968-69, c. 53, s. 12. Release by claimant

(3) The insurance mentioned in clause *a* of subsection 1 is a first loss insurance, and any other automobile insurance of the same type available to the injured person or in respect of a deceased person is excess insurance only. First loss and excess insurance

(4) The insurance mentioned in clause *a* of subsection 1 is excess insurance to any other insurance not being automobile insurance of the same type indemnifying the injured person or in respect of a deceased person for the expenses. Excess insurance

(5) The insurance mentioned in clause *b* of subsection 1 is excess insurance to any other insurance indemnifying the injured person or in respect of a deceased person for the expenses. 1966, c. 71, s. 11, *part*. Idem



Accident  
benefits

**232.**—(1) Where in a contract an insurer provides accident insurance benefits in respect of the death of or injury to an insured person arising out of an accident involving an automobile, the insurance applies only in respect of,

- (a) any person who sustains bodily injury or death while driving or being carried in or upon or entering or getting on to or alighting from or, if not the occupant of another automobile, as a result of being struck by an automobile owned by the insured named in the contract in respect of which insurance of the class mentioned in clause *a* of paragraph 9 of section 1 is provided under the contract; and
- (b) the insured named in the contract and his or her spouse and any dependent relative residing in the same dwelling premises as the named insured who sustains bodily injury or death while driving or being carried in or upon or entering or getting on to or alighting from or as a result of being struck by any other automobile that is defined in the policy for the purposes of the insurance. 1966, c. 71, s. 11, *part*.

Release by  
claimant

R.S.O. 1970,  
c. 164

(2) Where an insurer makes a payment under a contract of insurance to which subsection 1 refers, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection 1, but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person. 1966, c. 71, s. 11, *part*; 1968-69, c. 53, s. 13.

First loss  
and excess  
insurance

(3) Subject to subsection 5, the insurance mentioned in clause *a* of subsection 1 is a first loss insurance, and any other automobile insurance of the same type available to the injured person or in respect of a deceased person is excess insurance only.

Excess  
insurance

(4) Subject to subsection 5, the insurance mentioned in clause *b* of subsection 1 is excess insurance over any other automobile insurance of the same type available to the injured person or in respect of a deceased person.

Limit of  
benefit  
payable

(5) Where a person is entitled to benefits under more than one contract providing insurance of the type mentioned in this section, he or his personal representative or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may recover only an amount equal to,

- (a) one benefit, if the benefits under the contracts are of the same limit; or
- (b) the highest benefit, if the benefits under the contracts are not of the same limit. 1966, c. 71, s. 11, *part*.

**233.**—(1) Where a person is injured or killed in an accident in Ontario involving an automobile, that person or his personal representative may serve, Demand for particulars of insurance

- (a) a demand by registered mail on the owner of the automobile; or
- (b) a demand by registered mail on the insurer of the owner of the automobile,

requiring the owner or insurer, as the case may be, to state in writing to the person making the demand whether or not that owner has insurance of the type mentioned in sections 231 and 232, or either of them, and, where the demand is made under clause *a*, requiring the owner, if he has such insurance, to state the name of the insurer. 1966, c. 71, s. 11, *part*; 1967, c. 40, s. 5.

(2) An owner or insurer who does not, within ten days after receiving a demand made under subsection 1, comply with the demand is guilty of an offence. Offence 1966, c. 71, s. 11, *part*.

**234.** Any person insured by but not named in a contract to which section 230, 231 or 232 applies may recover under the contract in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor. 1966, c. 71, s. 11, *part*; 1968-69, c. 53, s. 14. Rights of unnamed insured

**235.**—(1) Where an insurer admits liability for insurance money payable under section 230, 231 or 232 and it appears that, Payment into S.C.O.

- (a) there are adverse claimants;
- (b) the whereabouts of an insured person entitled is unknown; or
- (c) there is no person capable of giving and authorized to give a valid discharge therefor who is willing to do so,

the insurer may, at any time after thirty days after the date upon which the insurance money becomes payable, apply to the court *ex parte* for an order for payment of the money into the Supreme Court, and the court may upon such notice, if any, as it thinks necessary make an order accordingly.

(2) The receipt of the proper officer of the court is sufficient discharge to the insurer for the insurance money paid into the Supreme Court, and the insurance money shall be dealt with as the court orders. 1966, c. 71, s. 11, *part*. Discharge of insurer

Limitation  
of action

**236.** Every action or proceeding against an insurer under a contract in respect of insurance provided under section 230, 231 or 232 shall be commenced within the limitation period specified in the contract, but in no event shall the limitation period be less than one year after the happening of the accident. 1966, c. 71, s. 11, *part.*

Demand on  
claimant

**237.** Where any person makes a claim for damages in respect of bodily injury or death sustained by the person or any other person while driving or being carried in or upon or entering or getting on to or alighting from or as a result of being struck by an automobile, he shall, if required by the person against whom the claim is made or by someone acting on his behalf, furnish to or for that person full particulars of all insurance available to the claimant under contracts falling within the scope of section 231 or 232, and of any payments of insurance money made or to be made thereunder. 1966, c. 71, s. 11, *part.*

Terms of  
certain  
insurances

**238.** Subject to subsection 1 of section 201, an insurer may in a policy,

- (a) provide insurance that is less extensive in scope than the insurance mentioned in section 230, 231 or 232; and
- (b) provide the terms of the contract that relate to the insurance mentioned in section 230, 231 or 232. 1966, c. 71, s. 11, *part.*

#### OTHER INSURANCE

Other  
insurance

**239.**—(1) Subject to section 222, insurance under a contract evidenced by a valid owner's policy of the kind mentioned in paragraph 46 of section 1 is, in respect of liability arising from or occurring in connection with the ownership, use or operation of an automobile owned by the insured named in the contract and within the description or definition thereof in the policy, a first loss insurance, and insurance attaching under any other valid motor vehicle liability policy is excess insurance only.

Idem

(2) Subject to sections 222, 231 and 232 and to subsection 1 of this section, if the insured named in a contract has or places any other valid insurance, whether against liability for the ownership, use or operation of or against loss of or damage to an automobile or otherwise, of his interest in the subject-matter of the contract or any part thereof, the insurer is liable only for its rateable proportion of any liability, expense, loss or damage. 1966, c. 71, s. 11, *part.*

Rateable  
proportion  
defined

(3) "Rateable proportion" as used in subsection 2 means,

- (a) if there are two insurers liable and each has the same policy limits, each of the insurers shall share equally in any liability, expense, loss or damage;

- (b) if there are two insurers liable with different policy limits, the insurers shall share equally up to the limit of the smaller policy limit;
- (c) if there are more than two insurers liable, clauses *a* and *b* apply *mutatis mutandis*. 1968-69, c. 53, s. 15.

## SUBROGATION

**240.**—(1) An insurer who makes any payment or assumes Subrogation liability therefor under a contract is subrogated to all rights of recovery of the insured against any person and may bring action in the name of the insured to enforce those rights.

(2) Where the net amount recovered whether by action or on settlement is, after deduction of the costs of the recovery, not Pro-rating recovery sufficient to provide complete indemnity for the loss or damage suffered, the amount remaining shall be divided between the insurer and the insured in the proportion in which the loss or damage has been borne by them.

(3) Where the interest of an insured in any recovery is limited to the amount provided under a clause in the contract to which section 228 applies, the insurer shall have control of the action. 1966, c. 71, s. 11, *part*. Action when s. 228 applies

(4) Where the interest of an insured in any recovery exceeds that referred to in subsection 3 and the insured and the insurer cannot agree as to, Application to S.C.O.

- (a) the solicitors to be instructed to bring the action in the name of the insured;
- (b) the conduct and carriage of the action or any matters pertaining thereto;
- (c) any offer of settlement or the apportionment thereof, whether action has been commenced or not;
- (d) the acceptance of any money paid into court or the apportionment thereof;
- (e) the apportionment of costs; or
- (f) the launching or prosecution of an appeal,

either party may apply to the Supreme Court for the determination of the matters in question, and the court shall make such order as it considers reasonable having regard to the interests of the insured and the insurer in any recovery in the action or proposed action or in any offer of settlement. 1966, c. 71, s. 11, *part*; 1967, c. 40, s. 6.

(5) On an application under subsection 4, the only parties Idem entitled to notice and to be heard thereon are the insured and the insurer, and no material or evidence used or taken upon the application is admissible upon the trial of an action brought by or against the insured or the insurer.



Concurrence  
in settle-  
ment or  
release

(6) A settlement or release given before or after an action is brought does not bar the rights of the insured or the insurer, as the case may be, unless they have concurred therein. 1966, c. 71, s. 11, *part.*

## PART VII

### ACCIDENT AND SICKNESS INSURANCE

Interpre-  
tation

#### **241.** In this Part,

- (a) “application” means a written application for insurance or for the reinstatement of insurance;
- (b) “beneficiary” means a person designated or appointed in a contract or by a declaration, other than the insured or his personal representative, to whom or for whose benefit insurance money payable in the event of death by accident is to be paid;
- (c) “blanket insurance” means that class of group insurance that covers loss arising from specific hazards incident to or defined by reference to a particular activity or activities;
- (d) “contract” means a contract of insurance;
- (e) “court” means the Supreme Court, or a judge thereof;
- (f) “creditor’s group insurance” means insurance effected by a creditor whereby the lives or well-being, or the lives and well-being, of a number of his debtors are insured severally under a single contract;
- (g) “declaration” means an instrument signed by the insured,
  - (i) with respect to which an endorsement is made on the policy, or
  - (ii) that identifies the contract, or
  - (iii) that describes the insurance or insurance fund or a part thereof,

in which he designates or alters or revokes the designation of his personal representative or a beneficiary as one to whom or for whose benefit shall be paid the insurance money that is payable in the event of death by accident;

- (h) “family insurance” means insurance whereby the lives or well-being, or the lives and well-being, of the insured and one or more persons related to him by blood, marriage or adoption are insured under a single contract between an insurer and the insured;
- (i) “group insurance” means insurance other than creditor’s group insurance and family insurance, whereby the lives or well-being, or the lives and well-being, of a number of persons are insured severally under a single

contract between an insurer and an employer or other person;

- (j) “group person insured” means a person who is insured under a contract of group insurance and upon whom a right is conferred by the contract, but does not include a person who is insured thereunder as a person dependent upon or related to him;
- (k) “instrument” includes a will;
- (l) “insurance” means accident insurance, sickness insurance, or accident insurance and sickness insurance;
- (m) “insured”,
  - (i) in the case of group insurance means, in the provisions of this Part relating to the designation of beneficiaries or of personal representatives as recipients of insurance money and their rights and status, the group person insured, and
  - (ii) in all other cases means the person who makes a contract with an insurer;
- (n) “person insured” means a person in respect of an accident to whom, or in respect of whose sickness, insurance money is payable under a contract, but does not include a group person insured;
- (o) “will” includes a codicil. 1968-69, c. 53, s. 16 (1), *part*.

**242.**—(1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to contracts made in Ontario on or after the 1st day of October, 1970. 1968-69, c. 53, s. 16 (1), *part*, s. 16 (2), *amended*. Application of Part

(2) In the case of contracts made before and in effect on that day, Idem

- (a) this section and sections 241, 243, 244, 251, 254, 255, 256 and 260, and sections 262 to 278 of this Part apply; and
- (b) sections 230, 231, 232, 233, 235, 242 and 245 of *The Insurance Act*, as it existed immediately before the 1st day of October, 1970, continue to apply. 1968-69, c. 15, s. 16 (3).

(3) This Part does not apply to,

Exceptions

- (a) accidental death insurance; or
- (b) creditor’s group insurance; or
- (c) disability insurance; or
- (d) insurance provided under section 230, 231 or 232. 1968-69, c. 53, s. 16 (1), *part*.

Group  
insurance

**243.** In the case of a contract of group insurance made with an insurer authorized to transact insurance in Ontario at the time the contract was made, this Part applies in determining,

- (a) the rights and status of beneficiaries and personal representatives as recipients of insurance money, if the group person insured was resident in Ontario at the time he became insured; and
- (b) the rights and obligations of the group person insured if he was resident in Ontario at the time he became insured. 1968-69, c. 53, s. 16 (1), *part*.

Issue of  
policy

**244.** An insurer entering into a contract shall issue a policy. 1968-69, c. 53, s. 16 (1), *part*.

## Exceptions

**245.**—(1) This section does not apply to,

- (a) a contract of group insurance; or
- (b) a contract made by a fraternal society.

Contents  
of policy

(2) An insurer shall set forth the following particulars in the policy:

1. The name or a sufficient description of the insured and of the person insured.
2. The amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable.
3. The amount or the method of determining the amount of the premium and the period of grace, if any, within which it may be paid.
4. The conditions upon which the contract may be reinstated if it lapses.
5. The term of the insurance or the method of determining the day upon which the insurance commences and terminates. 1968-69, c. 53, s. 16 (1), *part*.

Contents  
of group  
policy

**246.** In the case of a contract of group insurance, an insurer shall set forth the following particulars in the policy:

1. The name or a sufficient description of the insured.
2. The method of determining the group persons insured and persons insured.
3. The amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable.
4. The period of grace, if any, within which the premium may be paid.

5. The term of the insurance or the method of determining the day upon which the insurance commences and terminates. 1968-69, c. 53, s. 16 (1), *part.*

**247.**—(1) Except as provided in subsection 2, in the case of a contract of group insurance an insurer shall issue for delivery by the insured to each group person insured a certificate or other document in which are set forth the following particulars: Contents  
of group  
certificate

1. The name of the insurer and a sufficient identification of the contract.
2. The amount or the method of determining the amount of insurance on the group person insured and on any person insured.
3. The circumstances under which the insurance terminates, and the rights, if any, upon such termination of the group person insured and of any person insured.

(2) This section does not apply to a contract of blanket insurance or to a contract of group insurance of a non-renewable type issued for a term of six months or less. 1968-69, c. 53, s. 16 (1), *part.* Exception

**248.**—(1) Subject to section 249 and except as otherwise provided in this section, the insurer shall set forth in the policy every exception or reduction affecting the amount payable under the contract, either in the provision affected by the exception or reduction, or under a heading such as “Exceptions” or “Reductions”. Exceptions  
or reduction

(2) Where the exception or reduction affects only one provision in the policy it shall be set forth in that provision. Idem

(3) Where the exception or reduction is contained in an endorsement, insertion or rider, the endorsement, insertion or rider shall, unless it affects all amounts payable under the contract, make reference to the provisions in the policy affected by the exception or reduction. Idem

(4) The exception or reduction mentioned in section 261 need not be set forth in the policy. Idem

(5) This section does not apply to a contract made by a fraternal society. 1968-69, c. 53, s. 16 (1), *part.* Idem

**249.** Subject to section 250, the conditions set forth in this section shall be deemed to be part of every contract other than a contract of group insurance, and shall be printed on or attached to the policy forming part of such contract with the heading “Statutory Conditions”. Statutory  
conditions



**STATUTORY CONDITIONS****The Contract**

1.—(1) The application, this policy, any document attached to this policy when issued, and any amendment to the contract agreed upon in writing after the policy is issued, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.

**Waiver**

(2) The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

**Copy of Application**

(3) The insurer shall, upon request, furnish to the insured or to a claimant under the contract a copy of the application.

**Material Facts**

2. No statement made by the insured or person insured at the time of application for this contract shall be used in defence of a claim under or to avoid this contract unless it is contained in the application or any other written statements or answers furnished as evidence of insurability.

**Changes in Occupation**

3.—(1) If after the contract is issued the person insured engages for compensation in an occupation that is classified by the insurer as more hazardous than that stated in this contract, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the insurer at the time the person insured engaged in the more hazardous occupation.

(2) If the person insured changes his occupation from that stated in this contract to an occupation classified by the insurer as less hazardous and the insurer is so advised in writing, the insurer shall either,

- (a) reduce the premium rate; or
- (b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation,

according to the limits, classification of risks, and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

**Relation of Earnings to Insurance**

4. Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance contract providing disability insurance, exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the insured shall be returned to him by the insurer.

**Termination by Insured**

5. The insured may terminate this contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in the Province, or by delivery thereof to an authorized agent of the insurer in the Province, and the insurer shall upon surrender of this policy refund the amount of premium paid in excess of the short rate premium calculated to the date of receipt of such notice according to the table in use by the insurer at the time of termination.

**Termination by Insurer**

6.—(1) The insurer may terminate this contract at any time by giving written notice of termination to the insured and by refunding concurrently with the giving of notice the amount of premium paid in excess of the *pro rata* premium for the expired time.

(2) The notice of termination may be delivered to the insured, or it may be sent by registered mail to the latest address of the insured on the records of the insurer.

(3) Where the notice of termination is delivered to the insured, five days notice of termination shall be given; where it is mailed to the insured, ten days notice of termination shall be given, and the ten days shall begin on the day following the date of mailing of notice.

**Notice and Proof of Claim**

**7.**—(1) The insured or a person insured, or a beneficiary entitled to make a claim, or the agent of any of them, shall,

- (a) give written notice of claim to the insurer,
  - (i) by delivery thereof, or by sending it by registered mail to the head office or chief agency of the insurer in the Province, or
  - (ii) by delivery thereof to an authorized agent of the insurer in the Province,

not later than thirty days from the date a claim arises under the contract on account of an accident, sickness or disability;

- (b) within ninety days from the date a claim arises under the contract on account of an accident, sickness or disability, furnish to the insurer such proof as is reasonably possible in the circumstances of the happening of the accident or the commencement of the sickness or disability, and the loss occasioned thereby, the right of the claimant to receive payment, his age, and the age of the beneficiary if relevant; and
- (c) if so required by the insurer, furnish a satisfactory certificate as to the cause or nature of the accident, sickness or disability for which claim may be made under the contract and as to the duration of such disability.

**Failure to Give Notice or Proof**

(2) Failure to give notice of claim or furnish proof of claim within the time prescribed by this statutory condition does not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible, and in no event

later than one year from the date of the accident or the date a claim arises under the contract on account of sickness or disability if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

**Insurer to Furnish Forms for Proof of Claim**

**8.** The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms within that time he may submit his proof of claim in the form of a written statement of the cause or nature of the accident, sickness or disability giving rise to the claim and of the extent of the loss.

**Rights of Examination**

**9.** As a condition precedent to recovery of insurance moneys under this contract,

- (a) the claimant shall afford to the insurer an opportunity to examine the person of the person insured when and so often as it reasonably requires while the claim hereunder is pending; and
- (b) in the case of death of the person insured, the insurer may require an autopsy subject to any law of the applicable jurisdiction relating to autopsies.

**When Moneys Payable Other Than for Loss of Time**

**10.** All moneys payable under this contract, other than benefits for loss of time, shall be paid by the insurer within sixty days after it has received proof of claim.

**When Loss of Time Benefits Payable**

**11.** The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim, and payment shall be made thereafter in accordance with the terms of the contract but not less frequently than once in each succeeding sixty days while the insurer remains liable

for the payments if the person insured when required to do so furnishes before payment proof of continuing disability.

**Limitation of Actions**

**12.** An action or proceeding against the insurer for the recovery of a claim under this contract shall not be commenced more than one year after the date the insurance money became payable or would have become payable if it had been a valid claim.

1968-69, c. 53, s. 16 (1), *pari.*

Omission or  
variation of  
conditions

**250.**—(1) Where a statutory condition is not applicable to the benefits provided by the contract it may be omitted from the policy or varied so that it will be applicable.

Idem

(2) Statutory conditions 3, 4 and 9 may be omitted from the policy if the contract does not contain any provisions respecting the matters dealt with therein.

Idem

(3) Statutory conditions 5 and 6 shall be omitted from the policy if the contract does not provide that it may be terminated by the insurer prior to the expiry of any period for which a premium has been accepted.

Idem

(4) Statutory conditions 3, 4, 5, 6 and 9, and subject to the restriction in subsection 5, statutory condition 7, may be varied but, if by reason of the variation the contract is less favourable to the insured, a person insured or a beneficiary than it would be if the condition had not been varied, the condition shall be deemed to be included in the policy in the form in which it appears in section 249.

Idem

(5) Clauses *a* and *b* of paragraph 1 of statutory condition 7 may not be varied in policies providing benefits for loss of time.

Idem

(6) Statutory conditions 10 and 11 may be varied by shortening the periods of time prescribed therein, and statutory condition 12 may be varied by lengthening the period of time prescribed therein.

Idem

(7) The title of a statutory condition shall be reproduced in the policy along with the statutory condition, but the number of a statutory condition may be omitted.

Contract by  
fraternal  
society

(8) In the case of a contract made by a fraternal society,

(a) the following provision shall be printed on every policy in substitution for paragraph 1 of statutory condition 1:

**The  
Contract**

**1.**—(1) This policy, the Act or instrument of incorporation of the society, its constitution, by-laws and rules, and the amendments made from time to time to any of them, the application for the contract and the medical statement of the applicant, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.

and

(b) statutory condition 5 shall not be printed on the policy. 1968-69, c. 53, s. 16 (1), *part*.

Notice of  
statutory  
conditions

**251.** In the case of a policy of accident insurance of a non-renewable type issued for a term of six months or less or in relation to a ticket of travel, the statutory conditions need not be printed on or attached to the policy if the policy contains the following notice printed in conspicuous type:

“Notwithstanding any other provision herein contained, this contract is subject to the statutory conditions in *The Insurance Act* respecting contracts of accident insurance.” 1968-69, c. 53, s. 16 (1), *part*.

**252.**—(1) Where a policy evidencing a contract or a certificate evidencing the renewal of a contract is delivered to the insured and the initial premium or in the case of a renewal certificate the renewal premium therefor has not been fully paid, Termination for non-payment of initial or renewal premium

- (a) the contract or the renewal thereof evidenced by the certificate is as binding on the insurer as if such premium had been paid although delivered by an officer or an agent of the insurer who did not have authority to deliver it; and
- (b) the contract may be terminated for the non-payment of the premium by the insurer upon ten days notice of termination given in writing to the insured and mailed postage prepaid and registered to the latest address of the insured on the records of the insurer and the ten days shall begin on the day following the date of mailing such notice.

(2) This section does not apply to a contract of group insurance or to a contract made by a fraternal society. 1968-69, c. 53, s. 16 (1), *part*. Exception

**253.**—(1) An insurer may, Right where premium unpaid

- (a) deduct unpaid premiums from an amount that it is liable to pay under a contract; or
- (b) sue the insured for unpaid premiums.

(2) Where a cheque or other bill of exchange or a promissory note or other written promise to pay is given for the whole or part of a premium and payment is not made according to its tenor, the premium or part thereof shall be deemed never to have been paid. Where cheque or note for premium not paid

(3) Clause *a* of subsection 1 does not apply to a contract of group insurance. Exception

(4) This section does not apply to a contract made by a fraternal society. 1968-69, c. 53, s. 16 (1), *part*. Idem

**254.** Without restricting the meaning of the expression “insurable interest”, a person has an insurable interest in his own life and well-being and in the life and well-being of, Insurable interest

- (a) his child or grandchild;
- (b) his spouse;
- (c) any person upon whom he is wholly or in part dependent for, or from whom he is receiving, support or education;



- (d) his officer or employee; and
- (e) any person in whom he has a pecuniary interest.  
1968-69, c. 53, s. 16 (1), *part.*

Lack of  
insurable  
interest

**255.**—(1) Subject to subsection 2, where at the time a contract would otherwise take effect the insured has no insurable interest, the contract is void.

Exceptions

- (2) A contract is not void for lack of insurable interest,
  - (a) if it is a contract of group insurance; or
  - (b) if the person insured has consented in writing to the insurance.

Consent  
of minors

(3) Where the person insured is under the age of sixteen years, consent to the insurance may be given by one of his parents or by a person standing *in loco parentis* to him. 1968-69, c. 53, s. 16 (1), *part.*

#### POLICIES ON LIVES OF MINORS

Capacity  
of minors

**256.**—(1) Except in respect of his rights as beneficiary, a minor who has attained the age of sixteen years has the capacity of a person of the age of twenty-one years,

- (a) to make an enforceable contract; and
- (b) in respect of a contract.

Capacity  
of minor  
beneficiary

(2) A beneficiary who has attained the age of eighteen years has the capacity of a person of the age of twenty-one years to receive insurance money payable to him and to give a valid discharge therefor. 1968-69, c. 53, s. 16 (1), *part.*

#### MISREPRESENTATION AND NON-DISCLOSURE

Duty to  
disclose

**257.**—(1) An applicant for insurance on his own behalf and on behalf of each person to be insured, and each person to be insured, shall disclose to the insurer in any application, on a medical examination, if any, and in any written statements or answers furnished as evidence of insurability, every fact within his knowledge that is material to the insurance and is not so disclosed by the other.

Failure to  
disclose

(2) Subject to sections 258 and 261, a failure to disclose or a misrepresentation of such a fact renders a contract voidable by the insurer.

Group  
insurance  
failure to  
disclose

(3) In the case of a contract of group insurance, a failure to disclose or a misrepresentation of such a fact with respect to a group person insured or a person insured under the contract does not render the contract voidable, but if evidence of insurability is specifically requested by the insurer, the insurance in respect of such a person is, subject to section 258, voidable by the insurer. 1968-69, c. 53, s. 16 (1), *part.*

**258.**—(1) Subject to section 261 and except as provided in subsection 2, Incontest-ability

- (a) where a contract, including renewals thereof, except a contract of group insurance, has been in effect continuously for two years with respect to a person insured, a failure to disclose or a misrepresentation of a fact with respect to that person required by section 257 to be disclosed does not, except in the case of fraud, render the contract voidable;
- (b) where a contract of group insurance, including renewals thereof, has been in effect continuously for two years with respect to a group person insured or a person insured, a failure to disclose or a misrepresentation of a fact with respect to that group person insured or person insured required by section 257 to be disclosed does not, except in the case of fraud, render the contract voidable with respect to that group person insured or person insured.

(2) Where a claim arises from a loss incurred or a disability beginning before a contract, including renewals thereof, has been in force for two years with respect to the person in respect of whom the claim is made, subsection 1 does not apply to that claim. 1968-69, c. 53, s. 16 (1), *part*. Exception

**259.** Sections 257 and 258 apply *mutatis mutandis* to a failure at the time of reinstatement of a contract to disclose or a misrepresentation at that time, and the period of two years to which reference is made in section 258 commences to run in respect of a reinstatement from the date of reinstatement. 1968-69, c. 53, s. 16 (1), *part*. Application of incontest-ability to reinstatement

**260.** Where a contract contains a general exception or reduction with respect to pre-existing disease or physical conditions and the person insured or group person insured suffers or has suffered from a disease or physical condition that existed before the date the contract came into force with respect to that person and the disease or physical condition is not by name or specific description excluded from the insurance respecting that person, Pre-existing conditions

- (a) the prior existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part for a loss incurred or a disability beginning after the contract, including renewals thereof, has been in force continuously for two years immediately prior to the date of loss incurred or commencement of disability with respect to that person; and
- (b) the existence of the disease or physical condition is not, except in the case of fraud, available as a defence against

liability in whole or in part if the disease or physical condition was disclosed in the application for the contract. 1968-69, c. 53, s. 16 (1), *part*.

Misstatement of age

**261.**—(1) Subject to subsections 2 and 3, if the age of the person insured has been misstated to the insurer then, at the option of the insurer, either,

- (a) the benefits payable under the contract shall be increased or decreased to the amount that would have been provided for the same premium at the correct age; or
- (b) the premium may be adjusted in accordance with the correct age as of the date the person insured became insured.

Misstatement of age in group insurance

(2) In the case of a contract of group insurance, if there is a misstatement to the insurer of the age of a group person insured, or person insured, the provisions, if any, of the contract with respect to age or misstatement of age shall apply.

True age governs

(3) Where the age of a person affects the commencement or termination of the insurance, the true age governs. 1968-69, c. 53, s. 16 (1), *part*.

#### BENEFICIARIES

Designation of beneficiary

**262.**—(1) Unless otherwise provided in the policy, an insured may in a contract or by a declaration designate his personal representative or a beneficiary to receive insurance money payable in the event of death by accident, and may from time to time alter or revoke the designation by declaration.

Designation in invalid will

(2) A designation in an instrument purporting to be a will is not ineffective by reason only of the fact that the instrument is invalid as a will or that the designation is invalid as a bequest under the will.

Priorities

(3) A designation in a will is of no effect against a designation made later than the making of the will.

Revocation

(4) If a designation is contained in a will and subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked.

Idem

(5) If a designation is contained in an instrument that purports to be a will and subsequently the instrument, if it had been valid as a will would have been revoked by operation of law or otherwise, the designation is thereby revoked. 1968-69, c. 53, s. 16 (1), *part*.

**263.**—(1) A designation in favour of the “heirs”, “next-of-kin” or “estate”, or the use of words of like import in a designation shall be deemed to be a designation of the personal representative. Meaning of “heirs”, etc.

(2) Where a beneficiary predeceases the person insured or group person insured, as the case may be, and no disposition of the share of the deceased beneficiary in the insurance money is provided in the contract or by declaration, the share is payable, Death of beneficiary

- (a) to the surviving beneficiary; or
- (b) if there is more than one surviving beneficiary, to the surviving beneficiaries in equal shares; or
- (c) if there is no surviving beneficiary, to the insured or group person insured, as the case may be, or his personal representative.

(3) A beneficiary designated under section 262 may upon the death by accident of the person insured or group person insured enforce for his own benefit, and a trustee appointed pursuant to section 264 may enforce as trustee, the payment of insurance money payable to him, and the payment to the beneficiary or trustee discharges the insurer to the extent of the amount paid, but the insurer may set up any defence that it could have set up against the insured or his personal representative. 1968-69, c. 53, s. 16 (1), *part*. Right to sue

**264.** An insured may in a contract or by a declaration appoint a trustee for a beneficiary, and may alter or revoke the appointment by a declaration. 1968-69, c. 53, s. 16 (1), *part*. Trustee for beneficiary

**265.**—(1) Until an insurer receives at its head or principal office in Canada an instrument or an order of any court of competent jurisdiction affecting the right to receive insurance money, or a notarial copy or a copy verified by statutory declaration of any such instrument or order, it may make payment of the insurance money and shall be as fully discharged to the extent of the amount paid as if there were no such instrument or order. Documents affecting title

(2) Subsection 1 does not affect the rights or interests of any person other than the insurer. Saving

(3) Where an assignee of a contract gives notice in writing of the assignment to the insurer at its head or principal office in Canada he has priority of interest as against, Interest of assignee

- (a) any assignee other than one who gave notice earlier in like manner; and
- (b) a beneficiary.

(4) Where a contract is assigned unconditionally and otherwise than as security, the assignee has all the rights and interests Assignee deemed to be insured



given by the contract and by this Part to the insured, and shall be deemed to be the insured.

Prohibition  
against  
assignment

(5) A provision in a contract to the effect that the rights or interests of the insured, or in the case of a contract of group insurance the group person insured, are not assignable is valid. 1968-69, c. 53, s. 16 (1), *part*.

Insurance  
money free  
from  
creditors

**266.**—(1) Where a beneficiary is designated, any insurance money payable to him is not, from the time of the happening of the event upon which it becomes payable, part of the estate of the insured and is not subject to the claims of the creditors of the insured.

Contract  
exempt  
from seizure

(2) While there is in effect a designation of beneficiary in favour of any one or more of a spouse, child, grandchild or parent of the person insured or group person insured, the rights and interests of the insured in the insurance money and in the contract so far as either relate to accidental death benefits are exempt from execution or seizure. 1968-69, c. 53, s. 16 (1), *part*.

Group  
person  
insured  
enforcing  
rights

**267.** A group person insured may, in his own name, enforce a right given by a contract to him, or to a person insured thereunder as a person dependent upon or related to him, subject to any defence available to the insurer against him or such person insured or against the insured. 1968-69, c. 53, s. 16 (1), *part*.

Simul-  
taneous  
deaths

**268.** Unless a contract or a declaration otherwise provides, where a person insured or group person insured and a beneficiary die at the same time or in circumstances rendering it uncertain which of them survived the other, the insurance money is payable in accordance with subsection 2 of section 263 as if the beneficiary had predeceased the person insured or group person insured. 1968-69, c. 53, s. 16 (1), *part*.

Payment  
into court

**269.**—(1) Where the insurer admits liability for the insurance money or any part thereof and it appears to the insurer that,

- (a) there are adverse claimants; or
- (b) the whereabouts of the person entitled is unknown; or
- (c) there is no person capable of giving or authorized to give a valid discharge therefor who is willing to do so,

the insurer may apply *ex parte* to the court for an order for payment of money into court, and the court may upon such notice, if any, as it deems necessary, make an order accordingly.

Costs of  
proceedings

(2) The court may fix without taxation the costs incurred upon or in connection with any application or order made under subsection 1, and may order the costs to be paid out of the insurance money or by the insurer or otherwise as it deems just.

(3) A payment made pursuant to an order under subsection 1 discharges the insurer to the extent of the payment. 1968-69, c. 53, s. 16 (1), *part*. Discharge of insurer

**270.**—(1) Where an insurer admits liability for insurance money payable to a minor and there is no person capable of giving and authorized to give a valid discharge therefor who is willing to do so, the insurer may at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable, pay the money less the applicable costs mentioned in subsection 2 into court to the credit of the minor. Where beneficiary a minor

(2) The insurer may retain, out of the insurance money for costs incurred upon payment into court under subsection 1, the sum of \$10 where the amount does not exceed \$1,000, and the sum of \$15 in other cases, and payment of the remainder of the money into court discharges the insurer. Costs

(3) No order is necessary for payment into court under subsection 1, but the accountant or other proper officer shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth and residence of the minor, and upon such payment being made the insurer shall forthwith notify the Official Guardian and deliver to him a copy of the affidavit. 1968-69, c. 53, s. 16 (1), *part*. Procedure

**271.** Where it appears that a representative of a beneficiary who is under disability may under the law of the domicile of the beneficiary accept payments on behalf of the beneficiary, the insurer may make payment to the representative and any such payment discharges the insurer to the extent of the amount paid. 1968-69, c. 53, s. 16 (1), *part*. Beneficiary under disability

**272.** Notwithstanding that insurance money is payable to a person, the insurer may if the contract so provides, but subject always to the rights of an assignee, pay an amount not exceeding \$2,000 to, Payments not exceeding \$2,000

- (a) a relative by blood or connection by marriage of a person insured or the group person insured; or
- (b) any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of a person insured or the group person insured, or to have a claim against the estate of a person insured or the group person insured in relation thereto,

and any such payment discharges the insurer to the extent of the amount paid. 1968-69, c. 53, s. 16 (1), *part*.

**273.**—(1) Subject to subsection 2, insurance money is payable in Ontario. Place of payment

Exception  
for group  
insurance

(2) In the case of a contract of group insurance, money is payable in the province or territory of Canada in which the group person insured was resident at the time he became insured.

Dollars

(3) Unless a contract otherwise provides, a reference therein to dollars means Canadian dollars whether the contract by its terms provides for payment in Canada or elsewhere.

Payment  
outside  
Ontario

(4) Where a person entitled to receive insurance money is not domiciled in Ontario, the insurer may pay the insurance money to that person or to any person who is entitled to receive it on his behalf by the law of the domicile of the payee and any such payment discharges the insurer to the extent of the amount paid.

Payment to  
personal  
representa-  
tive

(5) Where insurance money is by the contract payable to a person who has died or to his personal representative and such deceased person was not at the date of his death domiciled in Ontario, the insurer may pay the insurance money to the personal representative of such person appointed under the law of his domicile, and any such payment discharges the insurer to the extent of the amount paid. 1968-69, c. 53, s. 16 (1), *part*.

Action in  
Ontario

**274.** Regardless of the place where a contract was made, a claimant who is a resident of Ontario may bring an action in Ontario if the insurer was authorized to transact insurance in Ontario at the time the contract was made or at the time the action is brought. 1968-69, c. 53, s. 16 (1), *part*.

Insurer  
giving  
information

**275.** An insurer does not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument that it has received and that affects the insurance money. 1968-69, c. 53, s. 16 (1), *part*.

Undue  
prominence

**276.** The insurer shall not in the policy give undue prominence to any provision or statutory condition as compared to other provisions or statutory conditions, unless the effect of that provision or statutory condition is to increase the premium or decrease the benefits otherwise provided for in the policy. 1968-69, c. 53, s. 16 (1), *part*.

Relief  
from  
forfeiture

**277.** Where there has been imperfect compliance with a statutory condition as to any matter or thing to be done or omitted by the insured, person insured or claimant with respect to the loss insured against and a consequent forfeiture or avoidance of the insurance in whole or in part, and any court before which a question relating thereto is tried deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it deems just. 1968-69, c. 53, s. 16 (1), *part*.

Presump-  
tion against  
agency

**278.** No officer, agent, employee or servant of the insurer, and no person soliciting insurance, whether or not he is an agent of the insurer shall, to the prejudice of the insured, person insured or

group person insured, be deemed to be the agent of the insured or of the person insured or group person insured in respect of any question arising out of the contract. 1968-69, c. 53, s. 16 (1), *part.*

## PART VIII

### LIVE STOCK INSURANCE

**279.** This Part applies to live stock insurance and to any insurer carrying on the business of live stock insurance in Ontario. R.S.O. 1960, c. 190, s. 252. Application of Part

**280.** Every insurer licensed for the transaction of live stock insurance may, within the limits and subject to the conditions prescribed by the licence, insure against loss of live stock, by fire, lightning, accident, disease or other means, except that of design on the part of the insured, or by the invasion of any enemy or by insurrection. R.S.O. 1960, c. 190, s. 253. Property that may be insured

**281.** The following provisions of Part IV apply to live stock insurance contracts: Application of provisions as to fire insurance

1. The provisions as to the form and contents of the policy.
2. The provisions as to the conditions, including the statutory conditions, except where inapplicable to the nature of the risk.
3. The provisions relating to premium notes and assessments, other than sections 129, 130 and 140, where the insurance is on the premium note plan. R.S.O. 1960, c. 190, s. 254.

**282.**—(1) Contracts of insurance shall not in any case exceed the term of two years. Term of contract

(2) A contract made for one year or any shorter period may be renewed from time to time at the discretion of the directors by renewal receipt instead of by policy, on the assured paying the required premium or giving his premium note, and all payments or renewal by cash or premium notes must be made at or before the end of the period for which the policy was granted or renewed, otherwise the policy is void. Renewing policies

(3) No premium note taken under a contract of insurance shall exceed 40 per cent or be less than 10 per cent per annum of the sum insured, and no renewal receipt shall extend the contract beyond two years from the date of the policy. R.S.O. 1960, c. 190, s. 255. Premium note

## PART IX

### WEATHER INSURANCE

**283.** This Part applies to weather insurance and to any insurer carrying on the business of weather insurance in Ontario, but does not apply to weather insurance provided by an endorsement to a contract of fire insurance. R.S.O. 1960, c. 190, s. 256. Application of Part



What may  
be insured

**284.** Every insurer licensed for the transaction of weather insurance may, within the limit and subject to the conditions prescribed by the licence, insure against such atmospheric disturbances, discharges or conditions as the contract of insurance specifies. R.S.O. 1960, c. 190, s. 257.

Application  
of certain  
provisions  
as to fire  
insurance

**285.**—(1) The following provisions of Part IV apply to weather insurance contracts:

1. The provisions as to the form and contents of the policy.
2. The provisions as to the conditions, including the statutory conditions, except where inapplicable to the nature of the risk.
3. The provisions relating to premium notes and assessments, other than sections 129, 130 and 140, where the insurance is on the premium note plan.
4. The provisions relating to a refund from surplus.

Additional  
conditions

(2) The following additional conditions form part of every weather insurance contract:

1. The insurance may be terminated by the insurer by giving seven days notice to that effect.
2. The insurer is not liable for loss or damage occurring to buildings or structures or to their respective contents where the buildings or structures have been weakened by subsequent alterations unless permission to make such alterations has been previously granted in writing signed by a duly authorized agent of the insurer. R.S.O. 1960, c. 190, s. 258.

Term of  
contract

**286.** A contract of weather insurance shall not in any case exceed the term of three years. R.S.O. 1960, c. 190, s. 259.

Premium  
note

**287.** On every premium note taken by the insurer there shall be payable at the commencement of the three-year term of insurance a basic cash payment amounting to at least three-fifths of 1 per cent of the sum insured or *pro rata* where the cash payment is paid in advance for a shorter term, and the premium note shall, as to the balance thereof, be subject to assessment by the directors, and when the amount of insurance in force exceeds \$10,000,000 and the total assets of the company, including premium note residue, do not fall below 2 per cent of the total amount at risk, the basic cash payment may be reduced to three-eighths of 1 per cent of the sum insured for three years or *pro rata* for a shorter term, and when the amount of insurance in force exceeds \$25,000,000 and the total assets of the company, including premium note residue, do not fall below 1½ per cent of the total amount at risk, the Superintendent may authorize a further

reduction of the basic cash payment for three years, which shall not be less than three-tenths of 1 per cent of the sum insured or *pro rata* for a shorter term. R.S.O. 1960, c. 190, s. 260.

## PART X

### FRATERNAL SOCIETIES

**288.** In this Part,

Interpre-  
tation

- (a) "rates of contribution" means the regular net premiums, dues, rates or contributions receivable from the members for the purpose of the payment at maturity of the society's certificates or contracts of insurance;
- (b) "society" means a fraternal society. R.S.O. 1960, c. 190, s. 261; 1970, c. 134, s. 15.

**289.**—(1) Subject to subsection 2, this Part applies to all fraternal societies carrying on the business of insurance in Ontario.

Application  
of Part

(2) Sections 305 to 309 do not apply to a fraternal society whose membership is limited by its constitution or laws to municipal or government employees. R.S.O. 1960, c. 190, s. 262, *amended*.

Application  
of ss. 305-  
309 to cer-  
tain societies

**290.** Fraternal societies required to be licensed under this Act include,

What  
fraternal  
societies  
required to  
be licensed

- (a) a company, society, association or organization incorporated before the 10th day of March, 1890, under chapter 172 of The Revised Statutes of Ontario, 1887, or a predecessor thereof;
- (b) a society incorporated under chapter 183 of The Revised Statutes of Ontario, 1914, or a predecessor thereof, that undertakes insurance against death;
- (c) an association of the civil servants or employees of Canada incorporated by or under the authority of an Act of the Parliament of Canada;
- (d) a fraternal society incorporated after the 1st day of January, 1924, under *The Corporations Act* or a predecessor thereof. R.S.O. 1960, c. 190, s. 263.

R.S.O. 1970,  
c. 89

**291.** No fraternal society shall be licensed,

Cases in  
which such  
societies  
not to be  
licensed

- (a) if it undertakes insurance contracts with persons other than its own members; or
- (b) except as provided in section 314, if it insures or indemnifies against contingencies other than sickness, accident, disability, death or funeral expenses; or

- (c) if it has upon its books fewer than seventy-five members in good standing; or
- (d) if it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the insured; or
- (e) in the case of a fraternal society that has not been authorized to carry on business in Ontario before the 1st day of January, 1925, unless the society files with the Superintendent a declaration of its actuary in the form and to the effect required by subsection 2 of section 304. R.S.O. 1960, c. 190, s. 264.

Societies not  
deemed to  
be fraternal  
societies

**292.** The following shall be deemed not to be fraternal societies within the meaning of this Part and shall not be required or entitled to be licensed as such:

1. Societies known as mutual benefit societies as defined in section 1 and subject to Part XI, including,
  - i. a society that was incorporated under sections 36 to 41 of chapter 183 of the Revised Statutes of Ontario, 1914, or any Act for which that Act was substituted and that does not undertake contracts of life insurance, and
  - ii. a trade union in Ontario that under the authority of its incorporating Act or charter has an insurance or benefit fund for the benefit of its own members exclusively, and
  - iii. a mutual benefit society incorporated after the 1st day of January, 1925, under *The Corporations Act* or a predecessor thereof.
2. Pension fund and employees' benefit societies incorporated under *The Corporations Act* or a predecessor thereof.
3. A corporation not otherwise provided for in this Act that has by or under the authority of an Act of the Parliament of Canada created a fund for paying a gratuity on the happening of death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition.
4. A corporation not otherwise provided for in this Act that has by or under the authority of an Act of the Parliament of Canada an insurance and provident society or association, or an insurance or guarantee fund in connection with the corporation.

R.S.O. 1970,  
c. 89

5. A corporation that undertakes or offers to undertake contracts of insurance prohibited by section 291.
6. A corporation in which the insurance fund is used for the purposes of a mercantile or business enterprise, or for mercantile profit, or a society formed on the lodge system, whose insurance fund is held other than as a trust fund for the members insured.
7. A society in which the persons insured do not exercise, either directly or through representatives elected for a term not exceeding four years, effective control over the insurance fund of the society, or in which the officers or other persons having the disposition, control or possession of the insurance fund are elected or appointed for a longer period than four years.
8. Any corporation that undertakes contracts of insurance but is not formed exclusively for that purpose and that does not for the purposes of such contracts keep distinct and separate funds, securities, books and vouchers. R.S.O. 1960, c. 190, s. 265, *amended*.

**293.** Clause *b* of section 291 does not apply to contracts guaranteeing the fidelity of officers, servants or employees of the branches or subdivisions of a corporation. R.S.O. 1960, c. 190, s. 266.

Guarantee  
and endow-  
ment  
insurance

**294.**—(1) Where two or more lodges or branches of a society, though separately incorporated, are under the financial or administrative control of a central governing body in Ontario or a duly authorized provincial representative of the society, such governing body, if incorporated, or such provincial representative of the society may, if the Superintendent thinks proper, be dealt with as the society.

Central  
body for  
Ontario or  
representa-  
tive may be  
dealt with

(2) In the case of a fraternal society incorporated elsewhere than in Ontario, the central governing or controlling body in Ontario, if incorporated by virtue of the law of Ontario, may, if the Superintendent thinks proper, be dealt with as the society. R.S.O. 1960, c. 190, s. 267.

When cen-  
tral body for  
Ontario in-  
corporated

**295.**—(1) Every fraternal society shall, with its application for licence, file in the office of the Superintendent duly certified copies in duplicate of those articles or provisions of the subsisting constitution, by-laws or rules that contain material terms not set out in the instrument of contract adopted by the society, and shall, from time to time, file in the office of the Superintendent duly certified copies in duplicate of every amendment, revision or consolidation of such articles or provisions of the constitution, by-laws and rules within thirty days after the passing or adoption of the amendment, revision or consolidation.

By-laws and  
rules to be  
filed with  
Superin-  
tendent



Superintendent may take exception within 30 days

(2) The Superintendent may, within thirty days after the date of such filing, take exception to any amendment or revision or any part thereof if, in his opinion, the amendment or revision or any part thereof is contrary to this Act, or is actuarially unsound, or is oppressive to or discriminatory in application against any class of the membership of the society, or is unjust or unreasonable.

Notice

(3) If the Superintendent takes exception to any such amendment or revision or any part thereof in accordance with this section, he shall forthwith notify the society thereof in writing and the reasons therefor.

Appeal

(4) The society or any person who considers himself aggrieved by the decision of the Superintendent may appeal therefrom in the manner provided by section 11.

Certified by-laws and rules to be filed with Provincial Registrar

(5) The original constitution, by-laws and rules and any amendment, revision or consolidation thereof, to which the Superintendent does not take exception, or that, after the Superintendent has taken exception to an amendment or revision or any part thereof, have been further amended in accordance with the Superintendent's direction, or that, after the Superintendent has taken exception to an amendment or revision or any part thereof, has been approved and confirmed on appeal from the Superintendent as herein provided, shall be certified by the Superintendent to be duly passed by the society as filed, and a copy thereof so certified by the Superintendent shall be filed by him in the office of the Provincial Secretary.

By-laws and rules as filed to be binding on society

(6) The constitution, by-laws or rules and any amendment, revision or consolidation thereof so certified shall, notwithstanding the declaration or other instrument filed under any general or special Act, be deemed to be the rules in force on and after the date of the certificate until a subsequent amendment, revision or consolidation is in like manner certified and filed and so from time to time, and are binding and obligatory upon all members of the society and upon all their beneficiaries and legal representatives and upon everyone entitled to any benefit under any certificate of the society, but the failure of the Superintendent to take exception to any rule of the society or amendment or revision thereof and his certifying and filing of the same does not make valid any provision of such rule that is inconsistent with this Act.

Where section does not apply

(7) This section does not apply to the constitution, by-laws and rules of a society or any amendment, revision or consolidation thereof passed and adopted by the society before the 1st day of January, 1925. R.S.O. 1960, c. 190, s. 268.

Where rules must be amended

**296.** Where because of a provision in any of its rules a society otherwise entitled to be licensed ought not, in the opinion of the Superintendent, to be licensed, it is not entitled to a licence until it has repealed or amended such rules in accordance with the direction of the Superintendent. R.S.O. 1960, c. 190, s. 269.

**297.**—(1) A copy of all rules of a society relating to its insurance contracts and to the management and application of its insurance funds shall be delivered by the society to any person requiring it on payment of 25 cents.

Rules  
deliverable  
on demand

(2) An officer or agent of a society who, with intent to mislead or defraud, gives a person a copy of rules other than the rules then in force on the pretence that they are the rules then in force is guilty of an offence. R.S.O. 1960, c. 190, s. 270.

Fraudulent  
delivery

**298.**—(1) Where by the constitution and rules of a society provision is made for the payment of an ascertained or ascertainable sum to a member of the society in the event of his becoming totally disabled, or of his reaching a stated age, or upon the concurrence of both events, whether such provision is combined with other life insurance or not, the society may, with the approval of the Superintendent, so amend its constitution and rules as to provide for the payment of such sum in equal consecutive annual instalments without interest, the payment of such instalments to be completed within a period not exceeding ten years from the happening of the event, but no person who has become entitled, or may become so entitled as aforesaid, to any such annual instalment shall receive payment of it unless at the maturity of each instalment such person has continued to be a member of the society and has paid all dues and assessments adopted by the society.

Substitution  
of  
instalments  
for gross  
payment

(2) All such amendments that have heretofore been or that are hereafter made by a society under its constitution and rules are valid and binding upon all its members and upon all their beneficiaries and personal representatives and upon everyone entitled, notwithstanding anything to the contrary in the instrument of incorporation of the society or the previous provisions of its constitution and rules.

Amend-  
ments of  
rules to  
that intent  
validated

(3) If a member of the society dies after becoming totally disabled or reaching the stated age but before the payment of all instalments, the instalments unpaid form part of the insurance money or benefits payable upon the death of such member.

When  
insured dies  
before re-  
ceiving all  
instalments

(4) No unmatured policy or contract of insurance creates any claim or liability against the society while a going society or against the estate of the society in a winding up or liquidation, but in a winding up or liquidation the insured or beneficiary for value under such unmatured policy or contract is entitled to share in the surplus assets of the society. R.S.O. 1960, c. 190, s. 271.

Unmatured  
policies as  
liabilities

**299.**—(1) The liabilities of a member under his contract at any date is limited to the assessments, fees and dues that became payable within the preceding twelve months and of which at such date notice had been given in accordance with the constitution and rules of the society.

Limitation  
of member's  
liability in  
fraternal  
society

Withdrawal of member (2) A member may at any time withdraw from the society by delivering or sending by registered mail to the society notice in writing of his intention to withdraw and paying or tendering the assessments, fees and dues mentioned in subsection 1.

Release from liability (3) After such withdrawal, the member becomes thereby released from all further liability under his contract.

Subject to rules (4) This section is subject to any rules to the contrary certified by the Superintendent and filed with the Provincial Secretary as hereinbefore provided. R.S.O. 1960, c. 190, s. 272.

Notice before forfeiture of benefit **300.**—(1) No forfeiture or suspension shall be incurred by reason of any default in paying any contribution or assessment, except such as are payable in fixed sums and at fixed dates, until after notice to the member stating the amount due by him, and that in case of default of payment within a reasonable time, not less than thirty days, to the proper officer, who shall be named in such notice, his interest or benefit will be forfeited or suspended, and default has been made by him in paying his contributions or assessment in accordance with such notice.

Interpretation (2) In subsection 1, “fixed dates” includes any numbered day, or any Monday, Tuesday, or as the case may be, numbered, alternate or recurring, of a stated month or months.

Saving rights to re-instatement (3) Where under the constitution or rules or by-laws of the society a defaulting member is entitled to be reinstated on payment of arrears after a stated number of days default, this section does not prejudice the rights of such member. R.S.O. 1960, c. 190, s. 273.

Conditions of forfeiture restricted **301.**—(1) Where it is stipulated that the benefit of the contract will be suspended or reduced or forfeited for any other reason than for non-payment of money, such condition is not valid unless it is held to be just and reasonable under the circumstances of the case.

Condition as to abstinence (2) In any contract of which total abstinence from intoxicating liquors is made an express condition, such condition shall be deemed to be just and reasonable. R.S.O. 1960, c. 190, s. 274.

How notice may be given to members **302.**—(1) Subject to subsection 2, a notice required to be given to a member for any purpose of this Act or of the rules of the society may be effectually given if written or printed notice is delivered, or is sent by registered mail to the member, or is left at his last known place of abode or of business or by publication in the official paper of the society.

Notice of reduction of benefit, etc. (2) A notice of the reduction of any benefit payable under a contract of insurance or of the increase of the premium payable thereunder shall be sent by registered mail to the member at his last known place of abode or of business. R.S.O. 1960, c. 190, s. 275.



**303.** A society incorporated under any Act of the Legislature is not entitled to a licence unless its head office is located and maintained in Ontario and the secretary and treasurer are *bona fide* residents in Ontario. R.S.O. 1960, c. 190, s. 276.

Head offices  
of Ontario  
societies

**304.**—(1) Subject to subsection 4, in addition to the annual statement required to be filed under this Act, each society shall file with the Superintendent, not later than the 1st day of May in each year, a valuation of its certificates or contracts of insurance in force at the last preceding 31st day of December, which valuation shall have regard to the prospective liabilities of the society under its certificates or contracts of insurance and to the rates of contribution to be thereafter received from its members on such certificates according to the rates in force at the date of valuation and shall be made and certified by an actuary appointed by the society and shall include a valuation balance sheet in such form and detail as the Superintendent from time to time may prescribe.

Valuation  
report

(2) Where in the opinion of the actuary appointed by the society the valuation balance sheet shows that the society is in a position to provide for the payment of its contracts of insurance as they mature without deduction or abatement and without increase in its existing rates of contribution, the society shall file with the Superintendent a declaration of the actuary to that effect.

Declaration  
of actuary

(3) A summary of the valuation certified by the actuary and a statement as to the financial condition of the society disclosed by such valuation shall be mailed to each insured member not later than the 1st day of June in each year or in lieu thereof such certified summary of the valuation and statement of the actuary may be published in the society's official paper and a copy mailed to each insured member.

Distribution  
of summary  
and state-  
ment to  
members

(4) A fraternal society whose membership is limited by its constitution or laws to municipal or government employees shall not be required to file the valuation mentioned in subsection 1 or to publish the summary thereof mentioned in subsection 3 unless and until required by the Superintendent in writing so to do. R.S.O. 1960, c. 190, s. 277.

Exception  
as to certain  
fraternal  
societies

**305.**—(1) If it appears to the Superintendent from the statement and reports filed with him or from an examination or valuation made under this Act that the assets of a licensed fraternal society applicable to the payment of its insurance contracts are insufficient to provide for the payment of its contracts of insurance at maturity without deduction or abatement and without increase in its existing rates of contribution, he shall make a special report to the Minister as to the financial condition of the society.

Where assets  
of society  
insufficient



Minister  
may request  
society to  
increase its  
rates, etc.

(2) If the Minister after consideration of the report concurs in the opinion of the Superintendent, the Minister shall request the society to make, within such time as he may prescribe, but not exceeding four years, such increase in its rates of contribution or such reduction in the benefits payable under its contracts of insurance or otherwise as will enable the society to provide for the payment of its contracts of insurance at maturity.

Society  
to act upon  
request

(3) On receipt of such request, the society shall take the steps prescribed by its laws or constitution for putting into effect such changes as may be approved by the actuary appointed by the society for the purpose aforesaid.

Special  
meeting to  
consider  
request of  
Minister

(4) Where in the opinion of the governing executive authority of the society a special meeting of the society is desirable for the purpose of considering the request of the Minister, the authority may call a special meeting of the supreme legislative body of the society upon such notice as the authority considers reasonable and as the Superintendent may approve, and such meeting so called shall be deemed to have been regularly constituted notwithstanding anything in its constitution and laws. R.S.O. 1960, c. 190, s. 278.

Reduction  
of benefits,  
or increase  
of rates

**306.** A fraternal society incorporated under the laws of Ontario may by amendment of its constitution and laws reduce the benefits payable under its contracts of insurance or some of them, or increase the rates of contribution payable by its members as a whole or some class or classes thereof, or make such other changes as are necessary to comply with the aforesaid request of the Minister and such amendments when adopted by a majority of the votes duly cast by the members of the supreme legislative body of the society at a regular or special meeting of the supreme legislative body of the society duly called are binding upon the members of the society and upon their beneficiaries or legal representatives and upon all persons deriving legal rights from any member or beneficiary, notwithstanding anything in its constitution and laws before such amendments or in its Act or instrument of incorporation, or in any contract, policy or certificate of insurance heretofore or hereafter issued by the society. R.S.O. 1960, c. 190, s. 279.

Default of  
society in  
complying  
with request  
of Minister

**307.—**(1) Where a society does not within the time allowed comply with the request of the Minister as prescribed by subsection 2 of section 305, the Superintendent shall report the default to the Minister, who shall thereupon appoint a readjustment committee of three persons of whom at least one must be an actuary who shall at as early a date as practicable investigate the assets, liabilities, rates of contribution and plans of insurance of the society and prepare a report containing such amendments to the society's constitution and laws reducing the benefits payable under its contracts of insurance or some of them or increasing the

rates of contribution payable by its members as a whole or some class or classes thereof, or such other amendments as the readjustment committee considers necessary in order to provide for the payment of all the contracts of insurance of the society as they mature in accordance with the amendments.

(2) The readjustment committee shall file such report in the office of the Superintendent and deliver to the society a certified copy thereof and, immediately upon such report being filed with the Superintendent, the amendments contained therein become part of the constitution and laws of the society and are valid and binding upon all its members and upon their beneficiaries or personal representatives and upon all persons deriving legal rights from any member or beneficiary notwithstanding anything in its constitution and laws before such amendments or in its Act or instrument of incorporation or in any policy or certificate of insurance issued by it.

Amendments in report of committee to be part of society's constitution

(3) The readjustment committee shall in the amendments fix a date not more than six months after the date of filing of the report when the reduction of benefits or increase in the rate of contribution provided for by such amendments will be in full force and effect.

Date to be fixed in report

(4) The society shall bear the expense of the investigation and report and shall furnish the readjustment committee with required information. R.S.O. 1960, c. 190, s. 280.

Expenses

**308.**—(1) Where a society that is unable to furnish the declaration of an actuary prescribed in subsection 2 of section 304 has heretofore adopted or hereafter adopts new rates of contribution that in the opinion of the actuary appointed by the society, filed with the Superintendent, make reasonable provision for the payment in full at maturity of the contracts of insurance issued to its members who have entered or enter the society upon such new rates of contribution, the society shall, after the payment of the matured contracts of such members, create and from time to time maintain out of the rates of contributions of such members and interest accretions thereto a reserve fund not less than the amount that, with the rates of contributions to be collected from such members, is, in the opinion of the actuary, required to pay in full such contracts of insurance as they mature, and such fund shall be a separate fund of the society and is not liable for payment of the debts and obligations of the society under its contracts of insurance with those members who have not contributed to the funds of the society under such new rates of contribution or under subsection 2.

Where society unable to furnish declaration of actuary

(2) The society may provide in its constitution and laws for the issue of new certificates to members admitted to the society before the establishment of such fund upon such terms and

New certificates may be issued

conditions as will, in the opinion of the actuary appointed by the society certified in writing to the Superintendent, enable the society to pay in full the contracts of insurance issued to such members as they mature, and subsection 1 applies to such new certificates.

Annual  
valuation  
of actuary,  
what to  
show

(3) The annual valuation of the actuary of the society maintaining a separate fund as hereinbefore prescribed shall show clearly and separately and in such detail as the Superintendent may require the financial position of the society in respect of the certificates of insurance included, and those not included, within the scope of the separate fund.

Merger  
of funds

(4) When a society that has been maintaining a separate fund for new members in accordance with this section files with the Superintendent a declaration of the actuary appointed by the society, the separate fund may, with the approval of the Superintendent, be merged with the other funds of the society of a kindred nature.

Main-  
tenance of  
common  
expense fund

(5) Nothing herein prevents a society that maintains a separate fund as hereinbefore described from maintaining a common expense fund. R.S.O. 1960, c. 190, s. 281.

Limitation  
of con-  
tribution

**309.** A society that files with the Superintendent the declaration prescribed by subsection 2 of section 304 or a society that maintains a separate fund for its contracts of insurance as prescribed by section 308 may provide in its constitution and laws for the issue of contracts of life insurance wherein the regular rates of contributions payable thereunder may be limited to a period of twenty or more years, if such rates of contribution have been approved by an actuary and if such certificates of insurance are subject to subsection 1 of section 308, but such limitation of payments does not affect the right of the society to make an assessment or assessments in respect of such certificates in accordance with the constitution and laws of the society either during or after the period of such limited payments. R.S.O. 1960, c. 190, s. 282.

Epidemic or  
unforeseen  
contingency

**310.** In the event of an epidemic or other unforeseen contingency impairing the funds of a society, the governing executive authority of the society may impose a special assessment or special assessments upon the members of the society or upon such class or classes thereof and with such incidence as in the opinion of the governing executive authority is necessary and equitable, and such special assessment or assessments are binding on the members of the society notwithstanding anything to the contrary in its Act or instrument of incorporation or its constitution and laws, or in any certificate of insurance heretofore or hereafter issued by the society. R.S.O. 1960, c. 190, s. 283.



**311.** The governing executive authority of a society may make such additional levies from time to time upon all members of the society as are necessary, in the opinion of the governing executive authority, to properly carry on the work of the society and prevent any deficit in its general or expense fund, and such additional levies are binding on its members notwithstanding anything to the contrary in its Act or instrument of incorporation, or in its constitution or laws, or in any certificate of insurance heretofore or hereafter issued by it. R.S.O. 1960, c. 190, s. 284.

**312.** A society whose valuation balance sheet prescribed by subsection 1 of section 304 shows a surplus of assets of more than 5 per cent over and above all its liabilities may apply the surplus or a part thereof, by way of transfer from the mortuary to the expense fund, by waiver of premium, by bonus additions or otherwise, in any manner that may be approved by the actuary appointed by the society, if a certificate of the actuary is filed with the Superintendent at least thirty days before any application or transfer is made certifying that the proposed application or transfer is authorized by the constitution and laws of the society, that it is fair and reasonable and in the best interests of the society, and that it will not prejudice the ability of the society to pay its contracts of insurance as they mature. R.S.O. 1960, c. 190, s. 285.

**313.** Every licensed fraternal society shall, before putting into effect any new or additional benefits or any new scale of rates of contribution under certificates of insurance, file with the Superintendent a certificate of an actuary approving of such benefits or rates of contribution. R.S.O. 1960, c. 190, s. 286.

**314.** A fraternal society licensed under this Act that has filed with the Superintendent for at least three successive years a declaration of an actuary as required by subsection 2 of section 304, if duly authorized by a by-law of the society passed on the recommendation of the actuary, may issue to its members,

- (a) endowment or term insurance contracts;
- (b) insurance contracts under which the sum or sums payable on the death of any one person, other than a double indemnity accident benefit, is in excess of \$10,000; and
- (c) annuities of all kinds. R.S.O. 1960, c. 190, s. 287.

**315.** Every by-law referred to in section 314 shall set forth the rates of benefit and indemnity and the amounts of insurance or annuity that may be issued, but such by-law is without effect unless the actuary of the society certifies to the reasonableness of the rates of benefit and indemnity and of the amounts of insurance or annuity having regard to,



- (a) all the conditions and circumstances of their issuance;
- (b) the sufficiency of the rates of contribution therefor; and
- (c) the reasonableness of the loan values, cash values and other equities that may be provided,

and recommends the passing of such by-laws. R.S.O. 1960, c. 190, s. 288.

Societies composed of municipal and government employees

**316.** Notwithstanding sections 314 and 315, any society whose membership is limited by its constitution or laws to municipal or government employees may undertake annuities on lives in the nature of old age pensions. R.S.O. 1960, c. 190, s. 289.

Surrender values and other equities

**317.** A fraternal society licensed under this Act that files with the Superintendent a declaration of an actuary as provided by subsection 2 of section 304 may, if its constitution so provides and subject thereto, grant such surrender values or other equities as are approved by its actuary and authorized by its constitution. R.S.O. 1960, c. 190, s. 290.

Report by Superintendent where assets of certain societies insufficient

**318.**—(1) If it appears to the Superintendent from the statements and reports filed with him or from an examination or valuation made under this Act that the assets of a licensed fraternal society whose membership is limited by its constitution or laws to municipal or government employees applicable to the payment of its insurance contracts are insufficient to provide for the payment of its contracts of insurance at maturity without deduction or abatement and without increase in its existing rates of contribution, he shall make a special report to the Minister and to the head or responsible officer of the municipality or government of which the members of the society are employees as to the financial condition of the society.

Responsibility of Superintendent

(2) The Superintendent shall not make any order or assume any responsibility for the readjustment of rates and benefits of the society necessary to enable it to provide for the payment of the contracts of insurance of the society at maturity, but a synopsis of his special report shall be reported in his annual report. R.S.O. 1960, c. 190, s. 291.

Exception as to annual statement

**319.** Where the constitution, by-laws or rules of a fraternal society provide for a fiscal year other than the calendar year, the Superintendent may, in his discretion, accept statements from it showing its affairs as at the end of the fiscal year instead of as at the end of the calendar year. R.S.O. 1960, c. 190, s. 292.

## PART XI

## MUTUAL BENEFIT SOCIETIES

**320.** Mutual benefit societies required to be licensed under this Act include, What societies required to be licensed

- (a) a society incorporated under sections 36 to 41 of chapter 183 of the Revised Statutes of Ontario, 1914, or a predecessor thereof that does not undertake contracts of life insurance;
- (b) a mutual benefit society incorporated after the 1st day of January, 1925, under *The Corporations Act* or a predecessor thereof. R.S.O. 1970, c. 89 R.S.O. 1960, c. 190, s. 293.

**321.**—(1) Subject to subsection 2, no mutual benefit society shall be licensed or have its licence renewed, What societies may not be licensed

- (a) if it has upon its books less than seventy-five members in good standing;
- (b) if it insures or indemnifies against contingencies other than sickness, disability or funeral expenses;
- (c) if it contracts for sick benefits for an amount in excess of \$30 per week or for a funeral benefit in excess of \$300;
- (d) if it undertakes insurance contracts with persons other than its own members;
- (e) if it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the insured;
- (f) if it has charge of or manages or distributes charity or gratuities or donations only.

(2) The Minister may, in his discretion, renew the licence of any mutual benefit society notwithstanding that it has upon its books, at the time of application for the renewal, less than seventy-five members in good standing. Exception R.S.O. 1960, c. 190, s. 294.

**322.** Sections 294, 295 and 296 apply *mutatis mutandis* to societies licensed under this Part. Application of certain sections R.S.O. 1960, c. 190, s. 295.

**323.** Where the constitution, by-laws or rules of a mutual benefit society that grants benefits solely through subordinate lodges or branches provide for a fiscal year other than the calendar year, the Superintendent may, in his discretion, accept statements from it showing its affairs as at the end of its fiscal year instead of as at the end of the calendar year. Exception as to annual statement R.S.O. 1960, c. 190, s. 296.

## PART XII

## PENSION FUND ASSOCIATIONS

Application  
of Part

**324.**—(1) This Part applies to all applications for licence of pension fund associations and to such pension fund associations when licensed under this Act.

Application  
of certain  
sections

(2) Subject to the express provisions of this Part, the provisions of this Act applicable to insurers licensed to undertake contracts of life insurance in Ontario, except sections 43 to 76, section 83 and Part V, apply to all pension fund associations. R.S.O. 1960, c. 190, s. 297.

Valuation  
to be filed

**325.** In addition to the annual statements required to be filed by every licensed insurer on or before the last day of February in each year, each pension fund association shall file with the Superintendent, in such form and at such times as he may require, a valuation of its certificates or contracts of insurance, which valuation shall have regard to the prospective liabilities of the pension fund association under its certificates or contracts of insurance, and to the rates of contribution to be thereafter received from its members on such certificates according to the rates of contribution in force at the date of valuation, and shall be made and certified by an actuary appointed by the pension fund association and approved by the Superintendent, and shall include a valuation balance sheet in such form and detail and according to such standards of valuation, having regard to the table of mortality and the rate of interest to be employed, as the Superintendent from time to time may prescribe. R.S.O. 1960, c. 190, s. 298.

## PART XIII

## RECIPROCAL OR INTER-INSURANCE EXCHANGES

Interpre-  
tation

**326.** In this Part, unless the context otherwise requires,

- (a) “attorney” means a person authorized to act for subscribers as provided in section 329;
- (b) “subscribers” means the persons exchanging with each other reciprocal contracts of indemnity or inter-insurance as provided in section 327. R.S.O. 1960, c. 190, s. 299.

Authority  
for exchange  
of reciprocal  
contracts of  
insurance

**327.** It is lawful for a person to exchange with other persons in Ontario and elsewhere reciprocal contracts of indemnity or inter-insurance for any class of insurance for which an insurance company may be licensed under this Act, except life insurance, accident insurance, sickness insurance, and guarantee insurance. R.S.O. 1960, c. 190, s. 300.

**328.** No person shall be deemed to be an insurer within the meaning of this Act by reason of exchanging with other persons reciprocal contracts of indemnity or inter-insurance under this Act. R.S.O. 1960, c. 190, s. 301.

Subscriber  
not to be  
deemed an  
insurer

**329.**—(1) Reciprocal contracts of indemnity or inter-insurance may be executed on behalf of subscribers by any other person acting as attorney under a power of attorney, a copy of which has been duly filed as hereinafter provided.

Execution  
of contract

(2) Notwithstanding any condition or stipulation of any such power of attorney or of any such contract of indemnity or inter-insurance, any action or proceeding in respect of any such contract may be maintained in any court of competent jurisdiction in Ontario. R.S.O. 1960, c. 190, s. 302.

Who may  
maintain  
action in  
contract

**330.** The persons constituting the exchange shall, through their attorney, file with the Superintendent a declaration verified by oath, setting forth,

Declaration  
by members  
of exchanges

- (a) the name of the attorney and the name or designation under which such contracts are issued, which name or designation must not be so similar to any other name or designation previously adopted by any exchange or by any licensed insurer as in the opinion of the Superintendent to be likely to result in confusion or deception;
- (b) the classes of insurance to be effected or exchanged under such contracts;
- (c) a copy of the form of the contract, agreement or policy under or by which such reciprocal contracts of indemnity or inter-insurance are to be effected or exchanged;
- (d) a copy of the form of power of attorney under which such contracts are to be effected or exchanged;
- (e) the location of the office from which such contracts are to be issued;
- (f) a financial statement in the form prescribed by the Superintendent;
- (g) evidence satisfactory to the Superintendent that it is the practice of the exchange to require its subscribers to maintain in the hands of the attorney, as a condition of membership in the exchange, a premium deposit reasonably sufficient for the risk assumed by the exchange;
- (h) evidence satisfactory to the Superintendent that the management of the affairs of the exchange is subject to the supervision of an advisory board or committee of the subscribers in accordance with the terms of the power of attorney. R.S.O. 1960, c. 190, s. 303.



Form of  
licence

**331.**—(1) Upon an exchange complying with this Part, the Superintendent may issue a licence in accordance with the form in Schedule C hereto.

Deposit

(2) Notwithstanding anything in this Act, the Superintendent may, with the approval of the Minister, require an exchange, as a condition of the issue or renewal of its licence, to deposit approved securities with the Minister in such amount and upon such terms and conditions as the Superintendent considers proper. R.S.O. 1960, c. 190, s. 304.

Evidence  
required  
before issue  
of licence for

**332.** A licence shall not be issued to an exchange to effect or exchange contracts of indemnity or inter-insurance,

fire  
insurance

(a) against loss by fire, until evidence satisfactory to the Superintendent has been filed with him that applications have been made for indemnity upon at least seventy-five separate risks in Ontario or elsewhere aggregating not less than \$1,500,000 as represented by executed contracts of *bona fide* applications to become concurrently effective;

automobile  
insurance

(b) in respect of automobiles, until evidence satisfactory to the Superintendent has been filed with him that applications have been made for indemnity upon at least 500 automobiles as represented by executed contracts or *bona fide* applications to become concurrently effective, and that arrangements satisfactory to him are in effect for the reinsurance of all liabilities in excess of such limits as he may prescribe. R.S.O. 1960, c. 190, s. 305.

Service of  
process

**333.** Where the office from which such contracts are to be issued is not in Ontario, service upon the Superintendent of notice or process in any action or proceeding in Ontario in respect of contract of indemnity or inter-insurance effected by the exchange shall be deemed service upon the subscribers who are members of the exchange at the time of the service. R.S.O. 1960, c. 190, s. 306.

Statement  
of maximum  
indemnity

**334.** There shall be filed with the Superintendent by the attorney, as often as the Superintendent may require, a statement of the attorney under oath showing, in the case of fire insurance, the maximum amount of indemnity upon any single risk and a statement of the attorney verified by oath to the effect that he has examined the commercial rating of the subscribers of the exchange as shown by the reference book of a commercial agency, having at least 500 subscribers, and that from such examination or other information in his possession it appears that no subscriber has assumed on any single fire insurance risk an amount greater than 10 per cent of the net worth of such subscriber. R.S.O. 1960, c. 190, s. 307.

**335.**—(1) There shall at all times be maintained with such attorney, as a reserve fund, a sum in cash or approved securities equal to 50 per cent of the annual deposits or advance premiums collected or credited to the accounts of subscribers on contracts in force having one year or less to run, and *pro rata* on those for longer periods.

Amount of  
reserve

(2) Except as hereinafter provided, there shall also be maintained as a guarantee fund or surplus an additional sum, in excess of all liabilities, in cash or approved securities amounting to not less than \$50,000.

Guarantee  
fund

(3) In the case of a fire insurance exchange whose principal office is in Ontario, the guarantee fund or surplus referred to in subsection 2 shall not be less than \$25,000.

Guarantee  
fund of fire  
insurance  
domestic  
exchange

(4) In the case of an automobile insurance exchange whose principal office is in Ontario, the guarantee fund or surplus referred to in subsection 2 shall, during the first year of operation of the exchange, be maintained at an amount not less than \$10,000, and thereafter not less than \$25,000.

Guarantee  
fund of  
domestic  
automobile  
insurance  
exchange

(5) If at any time the amounts on hand are less than the foregoing requirements, the subscribers or the attorney shall forthwith make up the deficiency.

Deficiency

(6) Where funds, other than those that accrued from premiums or deposits of subscribers, are supplied to make up a deficiency as herein provided for, such funds shall be deposited and held for the benefit of subscribers under such terms and conditions as the Superintendent may require so long as a deficiency exists, and may thereafter be returned to the depositor.

Use of funds  
supplied to  
make up  
deficiency

(7) In this section, "approved securities" means securities that are authorized for investment by section 336. R.S.O. 1960, c. 190, s. 308.

Interpre-  
tation

**336.**—(1) If the principal office of the exchange is in Ontario, the surplus insurance funds and the reserve fund of the exchange shall be invested in the class of securities authorized by Part XVII for the investment of the reserve funds of a joint stock insurance company. R.S.O. 1960, c. 190, s. 309 (1), *amended*.

Investment  
of surplus  
funds and  
reserve

(2) If the principal office of the exchange is outside Ontario, it shall be a condition precedent to the issue of a licence under this Act that evidence satisfactory to the Superintendent is filed with him showing that the class of security in which funds of the exchange are required by law to be invested, and are in fact invested, is within the limits of investment prescribed for the investment of the reserve funds of an insurance corporation by the jurisdiction in which the office of the exchange is situated. R.S.O. 1960, c. 190, s. 309 (2).

Evidence as  
to invest-  
ments

Contracts  
for sub-  
scribers only

**337.**—(1) No exchange shall undertake any liability on a contract of indemnity, inter-insurance or insurance except on behalf of a subscriber.

Reinsur-  
ance in  
another  
exchange

(2) No attorney or exchange shall effect reinsurance of any risks undertaken by the exchange in any licensed reciprocal or inter-insurance exchange unless such exchange operates on the same underwriting standards. R.S.O. 1960, c. 190, s. 310.

Attorney  
not to act  
until licence  
granted

**338.**—(1) No person shall act as attorney, or for or on behalf of an attorney, in the exchange of reciprocal contracts of indemnity or inter-insurance, or in acts or transactions in connection therewith, until a licence has been issued and is in force.

Offence

(2) Every person who, in contravention of subsection 1, undertakes or effects or agrees or offers to undertake or effect an exchange of reciprocal contracts of indemnity or inter-insurance, or any act or transaction in connection therewith, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1960, c. 190, s. 311.

Suspension  
or  
revocation  
of licence

**339.**—(1) Where a licensed exchange or attorney contravenes any provision of this Act, the licence of the exchange may be suspended or revoked by the Minister on the report of the Superintendent after due notice and opportunity for a hearing before the Superintendent has been given to the exchange or its attorney, but the suspension or revocation does not affect the validity of any reciprocal contracts of indemnity or inter-insurance effected prior thereto or the rights and obligations of subscribers under such contracts.

Notice

(2) Notice of such suspension or revocation shall be given by the Superintendent in at least two successive issues of *The Ontario Gazette* as soon as reasonably may be after the suspension or revocation. R.S.O. 1960, c. 190, s. 312.

Annual  
tax

**340.** The attorney shall, on or before the 1st day of March in each year, pay to the Treasurer of Ontario for the use of Ontario an annual tax equal to 2 per cent of the gross premiums or deposits, other than those in respect of reinsurance ceded to the exchange by other insurers, collected from subscribers in respect of risks located in Ontario during the preceding calendar year, after deducting returns for cancellations and all amounts returned to subscribers or credited to their accounts as savings during such year. 1966, c. 71, s. 14.

Fire insur-  
ance in  
unlicensed  
exchanges  
may be  
effected  
outside  
Ontario

**341.** Notwithstanding anything in this Act, any person may insure against fire any property situated in Ontario in an exchange not licensed under this Act, and any property so insured or to be insured may be inspected and any loss incurred in respect thereof adjusted, if such insurance is effected outside Ontario and without any solicitation in Ontario directly or indirectly on the part of the insurer. R.S.O. 1960, c. 190, s. 314.

## PART XIV

## AGENTS, BROKERS AND ADJUSTERS

## LICENCES OF INSURANCE AGENTS

**342.**—(1) The Superintendent may issue to any person who has complied with this Act a licence authorizing such person to carry on business as an insurance agent subject to this Act, to the regulations and to the terms of the licence. R.S.O. 1960, c. 190, s. 315 (1). Licensing agent

- (2) Licences so issued shall be of three classes, that is, Classes of licences
- (a) licences for life insurance, or life and accident insurance, or life and accident and sickness insurance; or
  - (b) licences for accident and sickness insurance; or
  - (c) licences for all classes of insurance other than life insurance. 1968-69, c. 53, s. 17 (1).

(3) Upon written notice to the Superintendent that a licensed insurer has appointed a person to act as his agent in Ontario and upon due application of such person and payment by him of the prescribed fee, the Superintendent shall, if he is satisfied that the applicant is a suitable person to receive a licence and intends to hold himself out publicly and carry on business in good faith as an insurance agent, issue to the applicant a licence that shall state in substance that the holder is, during the term of the licence, authorized to carry on in Ontario the business of an insurance agent. Issue of licence

(4) Such notice of appointment by an insurer shall be upon a form furnished by the Superintendent and shall state that the appointee has been authorized in writing by the insurer to act as agent in the soliciting of and negotiating for insurance and shall be accompanied by a sworn statement of the appointee on a form furnished by the Superintendent giving the name, age, residence and present occupation of the applicant and his occupation for the five years next preceding the date of the notice and particulars of any other employment in which he is engaged and such other information as the Superintendent may require. Notice of appointment of agent

(5) Where the applicant is the appointee of an insurer carrying on in Ontario the business of life insurance, or life and accident insurance, or life and accident and sickness insurance, the licence shall expressly limit the authorization of the agent to the class of insurance for which the insurer is licensed, and, where the applicant is the appointee of an insurer carrying on in Ontario any class or classes of insurance business other than life insurance, the licence shall expressly exclude the business of life insurance, but nothing herein prevents the issue to the same applicant of two licences including all classes of insurance if due application has been made for two licences. R.S.O. 1960, c. 190, s. 315 (3-5). Limitations of licence



Notice of  
termination  
of agency

(6) Where the agency, upon notice of which a licence is issued, is terminated, notice in writing shall forthwith be given by the insurer to the Superintendent of the termination, with the reason therefor, and thereupon the licence is *ipso facto* suspended, but it may be revived subject to the approval of the Superintendent upon filing of notice of a new agency appointment and upon payment of the prescribed fee. R.S.O. 1960, c. 190, s. 315 (6); 1968-69, c. 53, s. 17 (2).

Failure to  
give notice

(7) An insurer who fails to notify the Superintendent within thirty days of the termination of an agency appointment as required by subsection 6 is guilty of an offence.

Revocation

(8) A licence issued under this section or section 343 may be revoked by the Superintendent if, after due investigation and a hearing, he determines that the holder of the licence,

- (a) has contravened any provision of this Act or the regulations in his operations as an insurance agent; or
- (b) has made a material misstatement in the application for the licence; or
- (c) has been guilty of a fraudulent practice; or
- (d) has demonstrated his incompetency or untrustworthiness to transact the insurance agency business for which the licence was granted, by reason of anything done or omitted in or about such business under the authority of the licence; or
- (e) has employed upon salary or otherwise any person whose application for licence as an insurance agent has been refused or whose licence has been revoked or suspended under this Part without having first obtained the written approval of the Superintendent.

Advisory  
board to  
hold hearing  
and report

(9) In determining the granting or refusal of an application for a licence or renewal of licence, or the revocation of an existing licence under this section or section 343, the Superintendent may, and shall when so requested in writing by the applicant or licensee, appoint an advisory board consisting of,

- (a) a representative of insurers;
- (b) a representative of agents; and
- (c) a representative of the Superintendent,

which shall hold a hearing and make a report to the Superintendent with such recommendation as it considers fit.

Chairman  
of board

(10) The representative of the Superintendent upon the advisory board shall act as chairman and, for the purposes of his duties in connection with the investigation and hearing contemplated by subsection 9, has the same powers as are vested in the Superintendent by section 3.

(11) A licence issued hereunder expires at such time as the regulations provide unless automatically suspended by notice under subsection 6 or unless revoked or suspended by the Superintendent; but such licence may, in the discretion of the Superintendent, be renewed for a succeeding year upon due application upon a form prescribed by the Superintendent giving such information as he may require, accompanied by a certificate of agency appointment of a licensed insurer and payment of the prescribed fee, without requiring anew the detailed information hereinbefore specified.

Term and  
renewal of  
licence

(12) The holder of a licence under this section as agent for insurance other than life insurance may, during the term and validity of his licence, act as agent for any licensed insurer within the limits prescribed by his licence, and may act as an insurance broker in dealing with licensed insurers without other or additional licences but may not act as agent or broker directly, or indirectly through a broker licensed for business with unlicensed insurers under section 346 or otherwise, in dealing with unlicensed insurers.

Authority  
of agents

(13) No life insurance agent shall be licensed to act as agent for more than one insurer transacting life insurance, and the name of such insurer shall be specified in the licence, and no such agent shall represent himself to the public by advertisement or otherwise as the agent of more than one such insurer, but where such an agent is unable to negotiate insurance on behalf of an applicant for insurance with the insurer for which he is the authorized agent, such agent has the right to procure such insurance from another insurer if such other insurer obtains in each case the consent in writing of the insurer for which such agent is the authorized agent, and files a copy of such consent with the Superintendent.

Authority of  
life insurance  
agent

(14) A collector of insurance premiums who does not solicit application for or the renewal or continuance of insurance contracts or act or aid in negotiating such contracts or the renewal thereof may carry on such business without a licence therefor if his collection fee does not exceed 5 per cent of any amount collected.

Collectors

(15) A member of a duly licensed pension fund association, other than a salaried employee who receives commission or a member of a mutual fire, weather or live stock insurance corporation carrying on business solely on the premium note plan, may, without a licence, solicit persons to become members of such society, association or corporation.

Members of  
insurance  
corporations

(16) An officer or a salaried employee of the head office of a duly licensed fraternal society who does not receive commission may, without a licence, solicit insurance contracts on behalf of the society.

Officers of  
fraternal  
societies

Members  
of fraternal  
societies

(17) Any member not an officer or salaried employee described in subsection 16 may, without a licence, solicit insurance contracts on behalf of the society unless he devotes or intends to devote more than one-half of his time to soliciting such contracts or has in the previous licence year solicited and procured life insurance contracts on behalf of the society in an amount in excess of \$20,000.

Salaried  
officials,  
etc., acting  
without  
licence

(18) Unless the Superintendent otherwise directs, an officer or salaried employee of a licensed insurer who does not receive commissions, or an attorney or salaried employee of a reciprocal or inter-insurance exchange at which no commission is paid except to such attorney, may, without a licence, act for such insurer or exchange in the negotiation of any contracts of insurance or in the negotiation of the continuance or renewal of any contracts that the insurer or exchange may lawfully undertake, but officers or employees whose applications for licences as insurance agents or salesmen have been refused or whose licenses have been revoked or suspended may not so act without the written approval of the Superintendent, and, in the cases of insurers authorized to undertake life insurance, only the officers and salaried employees of the head office who do not receive commissions may so act without a licence.

Licensing of  
transporta-  
tion ticket  
agents

(19) Notwithstanding anything in this Act, the Superintendent may issue a licence to a transportation company authorizing it, by its employees in the province, to act as an agent for a licensed insurer with respect to accident insurance and such other classes of insurance as he approves.

Regulations

(20) The Lieutenant Governor in Council may make regulations,

- (a) prescribing requirements, qualifications and conditions for the granting or renewal of licences;
- (b) providing for the holding of examinations for applicants for licences or renewals of licences;
- (c) classifying applicants for licences and restricting or prohibiting the licensing of any class of applicant;
- (d) prescribing the grounds upon which a licence may be revoked, suspended or not renewed;
- (e) regulating the method of handling premiums collected and requiring and regulating accounts and records to be maintained by agents;
- (f) requiring agents to supply information and make returns to the Superintendent;
- (g) requiring an agent to furnish a bond or other security and fixing the amount, form, requirements and terms thereof;

- (h) prescribing forms and providing for their use; and
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this section.

(21) Regulations made under subsection 20 are in addition to the provisions of this section notwithstanding that the regulations concern a matter provided for in this section. Scope of regulations

(22) Every person who assumes to act as an agent without the licence required by this section, or while his licence as such is suspended, is guilty of an offence. R.S.O. 1960, c. 190, s. 315. Offence

#### LICENCES OF INSURANCE SALESMEN

**343.**—(1) The Superintendent may issue to any person who has complied with this Act a licence authorizing such person to act as a salesman on behalf of a licensed insurance agent or broker in negotiating contracts of insurance or in the negotiation of the continuance or renewal of any contracts such agent or broker may lawfully undertake. Licences of salesmen

(2) Licences so issued shall be for any classes of insurance, other than life insurance. Type of insurance

(3) Upon written notice to the Superintendent that a licensed agent or broker has appointed a person as a salesman to act on his behalf, and upon due application of such person and payment by him of a fee of \$10, the Superintendent shall, if he is satisfied that the applicant is a suitable person to receive a licence, and has not been refused a licence as an insurance agent or broker, or had such a licence suspended or revoked, issue to the applicant a licence stating in substance that the holder is, during the term of the licence, authorized to act in Ontario as a salesman of such agent or broker. Issue of licence

(4) Such notice of appointment by a licensed agent or broker, other than a life insurance agent, shall be upon a form furnished by the Superintendent and shall state that the appointee has been authorized in writing by the agent or broker to act as a salesman in the soliciting of and negotiating for insurance and shall be accompanied by a sworn statement of the appointee on a form furnished by the Superintendent giving his name, age, residence, the amount of monthly salary he is to receive for such employment, his present occupation and occupation for the five years next preceding the date of notice, particulars of any other employment in which he is engaged, and such other information as the Superintendent may require. Form of notice of appointment

(5) The licence shall expressly exclude the business of life insurance, but nothing herein prevents the issuance to the same applicant of a licence as a life insurance agent, if due application is made upon written notice of appointment by a licensed insurer. R.S.O. 1960, c. 190, s. 316 (5). Licence to exclude life insurance



Notice of  
termination  
of employ-  
ment

(6) Where a licensed salesman ceases to be employed by the appointing agent or broker, notice in writing shall forthwith be given by the agent or broker to the Superintendent of such termination of employment with the reason therefor, and thereupon the licence is *ipso facto* suspended, but such licence may be revived subject to the approval of the Superintendent upon filing a notice of the salesman's appointment by another agent or broker, and upon payment of the prescribed fee. R.S.O. 1960, c. 190, s. 316 (6); 1968-69, c. 53, s. 18.

Failure to  
give  
notice

(7) An agent or broker who fails to notify the Superintendent within thirty days of the termination of a salesman's appointment as required by subsection 6 is guilty of an offence.

Term and  
renewal  
of licence

(8) A licence issued under this section expires on the 30th day of September next after its issue unless automatically suspended by notice under subsection 6 or unless revoked or suspended by the Superintendent, but such licence may, in the discretion of the Superintendent, be renewed for a succeeding year upon due application upon a form prescribed by the Superintendent giving such information as he may require, accompanied by a certificate of a licensed agent or broker respecting the salesman's appointment, and payment of a fee of \$10, without requiring anew the detailed information hereinbefore specified.

Who sales-  
man may  
act for

(9) The holder of a licence issued under this section may, during the term and validity of his licence, act as salesman only for the agent or broker by whom he is appointed and within the limits of such agent's or broker's licence for classes of insurance other than life insurance.

Offence

(10) Every person who assumes to act as a salesman of an insurance agent or broker without the licence required by this section, or while his licence as such is suspended, is guilty of an offence. R.S.O. 1960, c. 190, s. 316.

#### LICENCES OF INSURANCE BROKERS

Licences of  
insurance  
brokers

**344.**—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person resident in Canada a licence to act in Ontario as an insurance broker to negotiate, continue or renew contracts of insurance, other than life insurance, or to place risks or effect insurance with any duly licensed insurer or its agent.

Application

(2) The applicant for such a licence shall file with the Superintendent a written application under oath upon a form provided by the Superintendent in which the applicant shall state his name, age, residence and occupation at the time of making the application, his occupation for the five years next preceding the date of the application and such other information as the Superintendent

may require, and the applicant shall declare that he intends to hold himself out publicly and carry on business in good faith as an insurance broker and he shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in Ontario.

(3) If the Superintendent is satisfied with the statement and information required by subsection 2, he shall issue the licence applied for, and the licence expires on the 30th day of September in each year unless sooner revoked or suspended. Superintendent may issue licence

(4) The licence may, in the discretion of the Superintendent, be renewed upon payment of the prescribed fee for each succeeding year without requiring anew the detailed information hereinbefore specified. Renewal of licence

(5) The Superintendent may, for cause shown and after a hearing, revoke the licence, or may suspend it for a period not exceeding the unexpired term thereof, and may, for cause shown and, after a hearing, revoke the licence while so suspended, and shall notify the licensee in writing of such revocation or suspension and may publish a notice of such revocation or suspension in such manner as he considers necessary for the protection of the public. Revocation or suspension of licence

(6) Any person, other than a licensed agent, who assumes to act as an insurance broker without a licence or during a suspension of his licence is guilty of an offence. Offence

(7) Subject to section 347, a broker shall not be presumed to be the agent of the insurer or the agent of the insured by reason of the issue to him of a licence under this section. R.S.O. 1960, c. 190, s. 317. Licence not to import agency

**345.** In addition to issuing insurance brokers' licences giving full authority to the licensee as set forth in the preceding sections, the Superintendent may issue insurance brokers' licences limiting the authority of the licensee to the extent agreed upon with the applicant and set forth in the licence, but in other respects the granting of such licences and the brokers so licensed are subject to this Act. R.S.O. 1960, c. 190, s. 318. Licence may be granted limiting authority of licensee

#### BROKERS' LICENCES FOR BUSINESS WITH UNLICENSED INSURERS

**346.**—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person resident in Ontario a licence to act as a special insurance broker to negotiate, continue or renew contracts of insurance in Ontario, other than contracts of life insurance, with insurers not authorized to transact such business in Ontario. Licence to special insurance broker

- Application (2) The applicant for such a licence shall file with the Superintendent a written application under oath as prescribed by section 344.
- Expiration of licence (3) If the Superintendent is satisfied with the statements and information required, he shall issue the licence applied for subject to suspension or revocation in the discretion of the Superintendent, which licence expires on the 30th day of June in each year unless sooner suspended or revoked.
- Renewal of licence (4) The licence may, in the discretion of the Superintendent, be renewed for each succeeding year upon payment of the prescribed fee without requiring anew the detailed information specified by section 344.
- Security (5) A person shall, before receiving such licence, execute and deliver to the Superintendent security to the satisfaction of the Superintendent in the sum of not less than \$5,000 that the licensee will faithfully comply with this Act.
- When licensee may effect insurance with unlicensed insurers (6) Where sufficient insurance in Ontario cannot be obtained at reasonable rates or on the form of contract required by the insured from insurers licensed to do business in Ontario, the person named in such licence may effect insurance with unlicensed insurers, but shall in the case of every insurance effected under this section obtain from the insured a signed and dated statement describing the risk to be insured and the amount of insurance required and stating that the insurance cannot be obtained in licensed companies and that the application for such insurance at the stated rate of premium was previously made to and refused by named companies licensed in Ontario, and the person named in such licence shall, within ten days after the placing of such insurance with unlicensed insurers, submit to the Superintendent a statement setting forth the name of the insured, a description of the risk insured, the full names of the unlicensed insurers, and the amount of insurance placed with each and the rate and amount of premium paid to each.
- Records to be kept, inspection (7) Such a licensee shall keep a separate account of insurance effected by him under his licence in books in the form prescribed by the Superintendent, which shall be open to inspection by the Superintendent or any officer of the Department.
- Monthly return (8) Within ten days after the end of each month, every such licensee shall make to the Superintendent a return under oath in the form and manner by him prescribed, containing particulars of all insurances effected under this section by the licensee during such month. R.S.O. 1960, c. 190, s. 319 (1-8).
- Tax on premiums (9) In respect of all premiums on insurance effected under a licence, the licensee shall pay to the Superintendent such taxes as would be payable if such premiums had been received by a

licensed insurer, and payment thereof shall accompany the monthly return provided for in subsection 8. R.S.O. 1960, c. 190, s. 319 (9); 1964, c. 47, s. 10.

(10) On it being shown to the satisfaction of the Minister that all insurances effected under this section are no longer in force or have been reinsured, the licensee is entitled to a release or cancellation of his security. Release of security given by licensee

(11) A licensee under this section shall accept applications for insurance with unlicensed insurers only from the insured or another licensee under this section and shall not receive any such application from, or pay or allow compensation or anything of value in respect of such applications to, an agent or broker not licensed under this section, and any contract of insurance with an unlicensed insurer made by or through any agent or broker not licensed under this section shall be deemed to be unlawfully made within the meaning of section 349. Prohibition against accepting business from agents and brokers

(12) A person licensed under this section who contravenes any of its provisions is guilty of an offence and, in addition to any other penalty, shall forfeit his licence. R.S.O. 1960, c. 190, s. 319 (10-12). Forfeiture of licence

#### PROVISIONS RELATING TO AGENTS AND BROKERS GENERALLY

**347.**—(1) An agent or broker shall, for the purpose of receiving any premium for a contract of insurance, be deemed to be the agent of the insurer notwithstanding any conditions or stipulations to the contrary. Agent or broker receiving premiums

(2) This section does not apply to life insurance. R.S.O. 1960, c. 190, s. 320. Exception

**348.** An agent or broker who knowingly procures, by fraudulent representations, payment or the obligation for payment of any premium on an insurance policy is guilty of an offence. R.S.O. 1960, c. 190, s. 321. Fraudulent representations

**349.** An agent or broker is personally liable to the insured on all contracts of insurance unlawfully made by or through him directly or indirectly with any insurer not licensed to undertake insurance in Ontario in the same manner as if such agent or broker were the insurer. R.S.O. 1960, c. 190, s. 322. Personal liability of agent for unlawful contracts

#### LICENCES OF INSURANCE ADJUSTERS

**350.**—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person a licence to act as an adjuster, but a person licensed as an insurance agent or broker under this Part shall not receive a licence to act as an insurance adjuster. Licences of insurance adjusters



Application  
to be filed  
with Super-  
intendent

(2) The applicant for such licence shall file with the Superintendent a written application under oath upon a form provided by the Superintendent in which the applicant shall state his name, age, residence and occupation for the five years next preceding the date of the application and such other information as the Superintendent may require, and the applicant shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in Ontario.

Licence to  
be in force  
one year

(3) If the Superintendent is satisfied with the statements and information required, he shall issue the licence, which expires on the 30th day of June in each year unless sooner revoked or suspended.

Renewal  
of licence

(4) A licence may, in the discretion of the Superintendent and upon payment of the prescribed fee, be renewed for each succeeding year without requiring anew the detailed information hereinbefore specified.

Revocation  
or suspen-  
sion of  
licence

(5) The Superintendent may, for cause shown and after a hearing, revoke the licence, or may suspend it for a period not exceeding the unexpired term thereof, and may, for cause shown and after a hearing, revoke the licence while so suspended, and shall notify the licensee in writing of the revocation or suspension.

Application  
of s. 342  
(8-10)

(6) The provisions of subsections 8, 9 and 10 of section 342, with reference to grounds of revocation of licence, to the appointment of an advisory board and to the power of the chairman thereof in the matter of insurance agents' licences, apply *mutatis mutandis* to applicants and licensees under this section, except that a representative of adjusters shall replace a representative of agents on the board.

Offence

(7) A person who acts as an adjuster without such a licence or during a suspension of his licence is guilty of an offence. R.S.O. 1960, c. 190, s. 323.

Prohibition  
against  
public  
adjusters  
of motor  
accident  
claims

**351.**—(1) Subject to subsection 2, no person shall, on behalf of himself or another person, directly or indirectly,

- (a) solicit the right to negotiate, or negotiate or attempt to negotiate, for compensation, the settlement of a claim for loss or damage arising out of a motor vehicle accident resulting from bodily injury to or death of any person or damage to property on behalf of a claimant; or
- (b) hold himself out as an adjuster, investigator, consultant or otherwise as an adviser, on behalf of any person having a claim against an insured for which indemnity is provided by a motor vehicle liability policy.

Exception

(2) This section does not apply to a barrister or solicitor acting in the usual course of his profession. R.S.O. 1960, c. 190, s. 324.

PARTNERSHIP LICENCES OF AGENTS, BROKERS AND  
ADJUSTERS

**352.**—(1) Licences as agents, brokers or adjusters may be issued to partnerships on the conditions hereinbefore specified for the issue of such licences to individuals except as otherwise provided in this section. Licences to partnerships

(2) Each member of the partnership shall file the statement or application and pay the prescribed fee, including a written request that the licence be issued in the name of the partnership, and the licence may be revoked or suspended as to one or more members of the partnership. Statement to be filed by each partner

(3) If the partnership is terminated before the expiration of the licence, the partners shall forthwith give notice to the Superintendent, who shall thereupon revoke the licence. Notice of termination of partnership

(4) A member of a partnership licensed under this section who contravenes any of its provisions is guilty of an offence. R.S.O. 1960, c. 190, s. 325. Offence

CORPORATION LICENCES OF AGENTS, BROKERS AND  
ADJUSTERS

**353.**—(1) Licences as agents, brokers or adjusters may be issued to any corporation that is incorporated expressly for the purpose of acting as an insurance agent, broker or adjuster or for that and other purposes. Licences to corporations

(2) Licences as agents or brokers shall not be issued to a corporation whose head office is outside Canada or if it appears to the Superintendent that the application is made for the purpose of acting as agent or broker wholly or chiefly in the insurance of property owned by the corporation or by its shareholders or members, or in the placing of insurance for one person, firm, corporation, estate or family. When licences not to be issued

(3) Except as otherwise provided in this section, such licences, and the corporation and officers of the corporation named in the licence, are subject to the provisions of this Act with respect to agents, brokers and adjusters. Provisions as to licences

(4) The licence shall specify the officers who may act thereunder in the name and on behalf of the corporation and every such officer shall file a statement or application and pay the prescribed fee for individual agents, brokers or adjusters, but employees who do not receive commissions and who perform office duties only on behalf of the corporation may so act by authority of the corporation licence although not named therein. Officers who may act under licence

(5) A licence may be revoked or suspended as to the corporation or as to any officers named therein. Revocation of licence

Superintendent may require information

(6) If the principal business of a corporation licensed under this section is not the business of an insurance agent or broker or adjuster, the Superintendent may require from such a corporation such information as he considers necessary in respect to the corporation, its officers and affairs and may make such examination of its books and affairs as he considers necessary for the purposes of this Act.

Notice of dissolution of corporation

(7) A corporation licensed under this section shall forthwith notify the Superintendent in writing of its dissolution or the revocation of its instrument of incorporation and upon receipt of such notice the Superintendent shall forthwith revoke the licence.

Personal liability of officers

(8) An officer specified in the licence who contravenes any of the provisions of this section is guilty of an offence and is personally liable therefor, although such contravention is committed in the name and on behalf of the corporation, and the corporation is liable for any such contravention the responsibility for which cannot be placed upon any such officer. R.S.O. 1960, c. 190, s. 326.

#### PROVISIONS RELATING TO AGENTS, BROKERS AND ADJUSTERS GENERALLY

Acting as agent, broker or adjuster without authority

**354.** A person who, not being duly licensed as an agent, broker or adjuster, represents or holds himself out to the public as being such an agent, broker or adjuster, or as being engaged in the insurance business by means of advertisements, cards, circulars, letterheads, signs, or other methods, or, being duly licensed as such agent, broker or adjuster, advertises as aforesaid or carries on such business in any other name than that stated in the licence, is guilty of an offence. R.S.O. 1960, c. 190, s. 327.

Agent to be deemed to hold premium in trust for insurer

**355.** An agent or broker who acts in negotiating, or renewing or continuing a contract of insurance, other than life insurance, with a licensed insurer, and who receives any money or substitute for money as a premium for such a contract from the insured, shall be deemed to hold such premium in trust for the insurer, and, if he fails to pay the premium over to the insurer within fifteen days after written demand made upon him therefor, less his commission and any deductions to which, by the written consent of the company, he is entitled, such failure is *prima facie* evidence that he has used or applied the premium for a purpose other than paying it over to the insurer. R.S.O. 1960, c. 190, s. 328; 1964, c. 47, s. 11.

No compensation to be paid by insurer to person not licensed

**356.**—(1) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly pay or allow, or agree to pay or allow, compensation or anything of value to any person for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal

thereof, or for attempting so to do, who, at the date thereof, is not a duly licensed insurance agent or broker or a person acting under subsections 15 and 18 of section 342 and whoever knowingly contravenes this subsection is guilty of an offence.

(2) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly make or attempt to make an agreement as to the premium to be paid for a policy other than as set forth in the policy, or pay, allow or give, or offer or agree to pay, allow or give, a rebate of the whole or part of the premium stipulated by the policy, or any other consideration or thing of value intended to be in the nature of a rebate of premium, to any person insured or applying for insurance in respect of life, person or property in Ontario, and an insurer or other person who contravenes this subsection is guilty of an offence.

Agreement  
as to  
premium  
other than  
as in policy  
prohibited

(3) Nothing in this section affects any payment by way of dividend, bonus, profit or savings that is provided for by the policy, or shall be construed so as to prevent an insurer compensating a *bona fide* salaried employee of its head or branch office in respect of insurance issued by the employing insurer upon the life of such employee or so as to require that such employee shall be licensed as an agent for life insurance under this Act to effect such insurance. R.S.O. 1960, c. 190, s. 329.

Exceptions

**357.** A person licensed as an agent for life insurance under this Act who induces, directly or indirectly, an insured to lapse, forfeit or surrender for cash, or for paid up or extended insurance, or for other valuable consideration, his contract of life insurance with one insurer in order to effect a contract of life insurance with another insurer, or makes a false or misleading statement or representation in the solicitation or negotiation of insurance, or coerces or proposes, directly or indirectly, to coerce a prospective buyer of life insurance through the influence of a business or a professional relationship or otherwise, to give a preference in respect to the placing of life insurance that would not be otherwise given in the effecting of a life insurance contract, is guilty of an offence. R.S.O. 1960, c. 190, s. 330.

Twisting life  
insurance  
policies  
prohibited

**358.** Every licensed insurer shall make a return under oath to the Superintendent in such form and at such times as he requires showing all persons, partnerships and corporations duly authorized as its agents in Ontario, and of persons, partnerships or corporations to whom it has, within such period as the form of return requires, paid or allowed or agreed to pay or allow, directly or indirectly, compensation for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting to do so. R.S.O. 1960, c. 190, s. 331.

Returns to  
Superin-  
tendent



Appeal

**359.** If the Superintendent refuses, suspends or revokes a licence applied for by or issued to a broker or adjuster, the Superintendent shall state in writing his reasons therefor and any person who considers himself aggrieved by the decision of the Superintendent may appeal therefrom to the Minister and, in case of an appeal, the decision of the Superintendent does not take effect until after the hearing and disposition thereof by the Minister. R.S.O. 1960, c. 190, s. 332.

Limited or  
conditional  
licence

**360.** A licence may be issued to an agent or adjuster subject to such limitations and conditions as the Superintendent may prescribe. R.S.O. 1960, c. 190, s. 333.

## PART XV

## RATES AND RATING BUREAUS

Interpre-  
tation

**361.** In this Part, "rating bureau" means an association or body, incorporated or unincorporated, created or organized for the purpose of fixing or promulgating rates of premium payable upon contracts of insurance in Ontario, or the terms or conditions of such contracts, or for these and other purposes, or that assumes to fix or promulgate such rates, terms or conditions by agreement among the members thereof or otherwise. R.S.O. 1960, c. 190, s. 334.

Filing of  
constitution  
by-laws,  
etc.

**362.**—(1) A rating bureau shall, forthwith after adoption, file in the office of the Superintendent duly certified copies of its constitution, articles of association and by-laws, and a list of its members and their addresses, and thereafter shall file in the office of the Superintendent every amendment, revision or consolidation of its constitution, articles of association and by-laws, and notice of the admission of new members and the withdrawal of former members, within thirty days after the passing or adoption of such amendment, revision or consolidation, or after the admission or withdrawal of such members.

Return of  
rates

(2) A rating bureau and a licensed insurer shall make a return under oath to the Superintendent in such form and at such times as he may require, showing every schedule of rates fixed, made or charged by them, together with such further or other information concerning such rates as he may require.

Changes  
in rates

(3) A rating bureau and a licensed insurer shall give to the Superintendent at least ten days notice of any change in the schedules of rates or rules applicable thereto filed with the Superintendent under subsection 2, and shall file with the Superintendent amended schedules duly verified under oath showing particulars of all such changes before their effective date.

(4) A rating bureau or licensed insurer that, having filed its schedules of rates under this section, fixes, makes or charges a rate or receives a premium that deviates from the schedules of rates fixed and filed with the Superintendent for, and the rules applicable to, any risk or class of risks is guilty of an offence. R.S.O. 1960, c. 190, s. 335.

Offence for  
deviation  
from filed  
rate

**363.** No rating bureau and no insurer authorized to transact the business of insurance in Ontario shall fix or make a rate or schedule of rates or charge a rate for automobile insurance to a group of persons by reason of such group being engaged in a trade, calling, profession or occupation, or by reason of membership in a guild, union, society, club or association or by reason of common employment or by reason of common occupancy of the same building or group of buildings or for any other reason that would result in a lower cost to an individual in such group than such individual would have had to pay if insured individually, and an insurer or other person who contravenes this section is guilty of an offence. R.S.O. 1960, c. 190, s. 336 (1).

Preferential  
rates for  
groups of  
persons  
prohibited

**364.**—(1) Nothing in this Act prohibits the fixing or charging of a special rate for the insurance of two or more vehicles owned by and registered in the name of the same person, except where the owner is engaged in the business of leasing the vehicles and the vehicles are the subject of a leasing agreement for a period in excess of thirty days.

Where  
special rate  
permitted

(2) Nothing in this section prohibits the fixing or charging of a special rate for the insurance of two or more vehicles of a lessor that are rented to the same lessee. 1966, c. 71, s. 16.

Idem

**365.**—(1) No rating bureau and no insurer authorized to transact the business of insurance in Ontario shall fix or make a rate or schedule of rates or charge a rate that discriminates unfairly between risks in Ontario of essentially the same physical hazards in the same territorial classification, or, if the rate is a fire insurance rate, that discriminates unfairly between risks in the application of like charges or credits or that discriminates unfairly between risks of essentially the same physical hazards in the same territorial classification and having substantially the same degree of protection against fire.

Discrimina-  
tion in rates

(2) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. R.S.O. 1960, c. 190, s. 337.

Commence-  
ment of  
section

**366.**—(1) The Superintendent may, on written complaint by an insurer or an insured that discrimination exists or upon such information filed with him as the Superintendent considers sufficient to justify an investigation, give notice in writing to a

Authority  
to require  
information  
to be filed

rating bureau or insurer, requiring such rating bureau or insurer to file with the Superintendent any schedules of rates or particulars showing how any specific rate is made up and any other information that he may require.

Time limit  
for filing  
information

(2) Such rating bureau or insurer shall, within five days after the receipt of the notice, file with the Superintendent the schedules, particulars and other information required.

Issue of  
order  
prohibiting  
rate

(3) The Superintendent may, within thirty days after the receipt of the information required, make an order prohibiting any rate that, in his opinion, contravenes section 365 and directing that the discrimination be removed.

Notice of  
order

(4) The Superintendent shall forthwith deliver to the rating bureau or insurer a copy of such order and reasons therefor and shall cause notice thereof to be published forthwith in *The Ontario Gazette*.

Rating  
bureau not  
to increase  
rates

(5) No rating bureau or insurer shall remove such discrimination by increasing the rates on any risk or class of risks affected by such order unless it be made to appear to the satisfaction of the Superintendent that such increase is justifiable.

Offence

(6) A rating bureau, insurer or other person failing to comply with such order is guilty of an offence.

Appeal

(7) An order made under this section does not take effect for a period of ten days after its date and is subject to appeal within that time in the manner provided by section 11 and, in the event of an appeal, the order of the Superintendent does not take effect pending the disposition of the appeal.

Commence-  
ment of  
section

(8) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. R.S.O. 1960, c. 190, s. 338.

Superin-  
tendent em-  
powered to  
order rate  
adjustment

**367.**—(1) It is the duty of the Superintendent, after due notice and a hearing before him, to order an adjustment of the rates for automobile insurance whenever it is found by him that any such rates are excessive, inadequate, unfairly discriminatory or otherwise unreasonable.

Appeal  
from order

(2) An order made under this section does not take effect for a period of ten days after its date, and is subject to appeal within that time by any insured, insurer or rating bureau, in the manner provided by section 11 and, in the event of an appeal, the order of the Superintendent does not take effect pending the disposition of the appeal. R.S.O. 1960, c. 190, s. 339 (1, 2).

Minister of  
Justice and  
Attorney  
General to  
be heard

(3) The Minister of Justice and Attorney General shall be served with notice of any such appeal and is entitled to be heard by counsel upon the hearing thereof. R.S.O. 1960, c. 190, s. 339 (3), *amended*.

(4) A rating bureau, insurer or other person failing to comply with such order is guilty of an offence.

(5) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. R.S.O. 1960, c. 190, s. 339 (4, 5).

**368.** The Superintendent or any person authorized under his hand and seal of office shall at all times have access to all such books, securities or documents of a rating bureau or insurer as are related to the schedules of rates of the rating bureau or insurer, and any officer or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access is guilty of an offence. R.S.O. 1960, c. 190, s. 340.

**369.**—(1) The Superintendent may inquire into any question that an insurer, insured or a rating bureau may bring before him with regard to insurance rates fixed by a rating bureau or charged by an insurer and also with regard to any other question arising out of the relationship or proposed relationship of the parties with reference to the insurance in question.

(2) The Superintendent shall not make an order pursuant to an inquiry under this section, but the result of the inquiry shall be reported in his annual report. R.S.O. 1960, c. 190, s. 341.

## PART XVI

### AMALGAMATION, TRANSFER AND REINSURANCE

**370.** In this Part, “reinsurance” means an agreement whereby contracts made in Ontario by a licensed insurer incorporated or organized under the laws of Ontario or any class or group of such contracts are undertaken or reinsured by another insurer either by novation, transfer or assignment or as a result of amalgamation of the insurers. 1970, c. 134, s. 16.

**371.**—(1) Nothing in this Part affects contracts of reinsurance of individual risks made by insurers in the ordinary course of business.

(2) In the case of the amalgamation of insurers, if one of the contracting insurers is an insurer not incorporated or organized under the law of Ontario, the Superintendent shall not recommend that the agreement be approved by the Lieutenant Governor in Council as hereinafter provided until it has been established to his satisfaction that the insurers party to the agreement have fully complied with the requirements of the law of the legislative authority under which the insurer was incorporated or



organized, but a certificate of the supervising insurance official appointed by such legislative authority that such insurer has fully complied with the requirements of the law of the authority is sufficient evidence to the Superintendent of that fact. R.S.O. 1960, c. 190, s. 343.

Agreement  
to be in  
writing

**372.**—(1) An agreement for reinsurance shall be evidenced by an instrument in writing setting forth in full the terms and conditions of such reinsurance, but no such agreement shall be entered into unless and until the permission of the Superintendent has been obtained, and the agreement is not binding or effective until approved by the Lieutenant Governor in Council upon the report of the Superintendent.

Irregularity  
not to  
invalidate

(2) Upon the approval of the Lieutenant Governor in Council, such agreement is valid and binding notwithstanding any irregularity in procedure or any failure to comply with the procedural provisions of this Part. R.S.O. 1960, c. 190, s. 344.

Approval of  
Lieutenant  
Governor  
in Council

**373.** When any such agreement for reinsurance has been entered into, the insurers party thereto shall within thirty days from the date of its execution apply for its approval to the Lieutenant Governor in Council by petition filed with the Superintendent. R.S.O. 1960, c. 190, s. 345.

Notice, etc.,  
to share-  
holders and  
policy-  
holders

**374.**—(1) In the case of life insurance, before any such application is made, notice thereof together with,

- (a) a statement of the nature and terms of the agreement for reinsurance;
- (b) an abstract containing the material facts embodied in the agreement under which such reinsurance is proposed to be effected; and
- (c) copies of the actuarial or other reports upon which the agreement is founded, including a report by an independent actuary approved by the Superintendent,

shall be served on the shareholders or members and on the holders of all policies in Ontario, other than industrial policies of each insurer, but the Superintendent may dispense with the service of such documents on the policyholders of the reinsuring insurer.

Service

(2) Such notice and documents shall be served by being transmitted through the post office directed to the registered or other known address of each such shareholder, member and policyholder and within such period that they may be delivered in the due course of delivery at least thirty days before the day appointed for the hearing of the application.

(3) Where a fraternal society is a party to an agreement for reinsurance, such notice and documents shall be deemed to be served on the members of the fraternal society if published in the official organ or publication, if any, of such society at least thirty days before the day appointed for the hearing of the application.

Service on  
members of  
fraternal  
society

(4) The agreement under which the reinsurance is proposed to be effected shall be open to the inspection of the policyholders and shareholders at the principal offices of the insurers in Ontario for a period of thirty days after the issue of the abstract herein provided for.

Inspection  
of  
agreement

(5) A copy of such notice shall also be published in *The Ontario Gazette* at least thirty days before the application is made.

Publication  
of notice

R.S.O. 1960, c. 190, s. 346.

**375.** In the case of fraternal societies, any such agreement for reinsurance may provide for granting out of the funds of the continuing society to the officer who has been in the service of a society party to such agreement for at least twenty years, and who is more than sixty years of age, and whose services will not be required after the agreement becomes effective, a sum not exceeding the aggregate of his salary or other remuneration for the next preceding three years or, in the alternative, an annual retiring allowance to any such officer during the remaining years of his life not exceeding three-fifths of his average annual salary for the next preceding three years of his service and payable weekly, semi-monthly or otherwise as is agreed upon. R.S.O. 1960, c. 190, s. 347.

Retiring  
allowance  
for officers  
of fraternal  
society

**376.** Upon the filing of the petition, the insurers party to the agreement shall deposit with the Superintendent,

Documents  
to be filed  
with Super-  
intendent

- (a) a certified copy of the agreement for reinsurance;
- (b) a statement of the nature and terms of reinsurance;
- (c) certified copies of the statements of assets and liabilities of the insurers party to the agreement;
- (d) certified copies of the actuarial or other reports upon which the agreement is founded;
- (e) a declaration under the hands of the president or principal officer and manager or secretary of each insurer that to the best of their knowledge and belief every payment made or to be made to any person whatsoever on account of the reinsurance is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any of the parties to the reinsurance;

- (f) evidence of the service and publication of the notices required by section 374, if any;
- (g) such other information and reports as the Superintendent may require. R.S.O. 1960, c. 190, s. 348.

Day of  
hearing

**377.** Upon receipt of the petition, the Superintendent shall fix a day for hearing the application and notice of the hearing shall be given in *The Ontario Gazette* at least ten days before the date fixed for the hearing. R.S.O. 1960, c. 190, s. 349.

Recommendation of  
Superintendent

**378.** After hearing the directors, shareholders, members and policyholders and other persons whom he considers entitled to be heard upon the application or giving them an opportunity to be so heard, the Superintendent may recommend that the agreement be approved by the Lieutenant Governor in Council if he is satisfied that no sufficient objection to the arrangement has been established. R.S.O. 1960, c. 190, s. 350.

Impairment  
of assets of  
combined or  
continuing  
insurer

**379.** No such agreement shall be recommended if it appears to the Superintendent that, after the consummation of the reinsurance, an impairment or deficiency will exist in the balance sheet of the continuing or reinsuring insurer when its liabilities (including its capital stock, if any) are calculated according to this Act. R.S.O. 1960, c. 190, s. 351.

Report by  
Superintendent  
where  
reinsurance  
advisable

**380.**—(1) If, in the case of a fraternal society, it appears to the Superintendent from the statement and reports filed with him, or from any examination or inquiry made under this Act, that, owing to depletion in membership or otherwise, the reinsurance of its contracts would be in the best interests of its members, he shall so advise the society and request that the advisability of entering into an agreement for reinsurance be considered.

Special  
meeting  
may be  
called

(2) Where, in the opinion of the governing executive authority of the society, a special meeting of the society is desirable for the purpose of considering the request of the Superintendent, the governing executive authority may call a special meeting of the supreme legislative body of the society upon such notice as the governing executive authority considers reasonable and as the Superintendent approves, and such meeting so called shall be deemed to have been regularly constituted notwithstanding any provisions contained in the constitution and laws of the society. R.S.O. 1960, c. 190, s. 352.

Transfer of  
contracts  
where  
insurer  
leaves  
Ontario

**381.** Where under an agreement between an insurer, in this section called the “continuing insurer”, and another insurer, in this section called the “retiring insurer”, in anticipation of the retiring insurer ceasing to do business in Ontario, the continuing insurer assumes liability under contracts of insurance specified in

the agreement issued by the retiring insurer and the retiring insurer ceases to carry on business in Ontario, an insured or other person entitled to rights under those contracts may enforce the rights as though those contracts had been issued by the continuing insurer. 1966, c. 71, s. 17.

## PART XVII

### INVESTMENTS

**382.** In this Part, “insurer” means an insurer incorporated or organized under the laws of Ontario and in section 383 includes only a joint stock insurance company, a fraternal society, a mutual insurance corporation and a cash-mutual insurance corporation. 1970, c. 134, s. 17, *part.*

Interpre-  
tation

**383.**—(1) An insurer may invest its funds or any portion thereof in,

Investment  
powers

- (a) the bonds, debentures, stocks or other evidences of indebtedness issued or guaranteed by the government of,
  - (i) Canada, Australia, Ceylon, India, New Zealand, Pakistan, the Republic of South Africa, the United Kingdom, or any province or state thereof, or Rhodesia or the Republic of Ireland,
  - (ii) a colony of the United Kingdom,
  - (iii) the United States of America or a state thereof,
  - (iv) a country in which the insurer is carrying on business, or a province or state thereof, or
  - (v) a colony, dependency, territory or possession of any country in which the insurer is carrying on business;
- (b) the bonds, debentures or other evidences of indebtedness issued or guaranteed by a municipal corporation in Canada or elsewhere where the insurer is carrying on business, or by a school corporation in Canada or elsewhere where the insurer is carrying on business, or secured by rates or taxes levied under the authority of the government of a province of Canada on property situate in such province and collectable by the municipalities in which such property is situate;
- (c) the bonds, debentures or other securities issued or guaranteed by the International Bank for Reconstruction and Development;
- (d) the bonds, debentures or other securities issued or guaranteed by the Inter-American Development Bank or by the Asian Development Bank;

Government  
bonds

municipal  
etc.,  
securities

bonds issued or  
guaranteed  
by the  
International  
Bank, etc.

bonds issued or  
guaranteed  
by the Inter-  
American  
Development  
Bank



federal  
subsidy  
bonds

- (e) the bonds or debentures issued by a corporation that are secured by the assignment to a trust company in Canada of an annual payment that the Government of Canada has agreed to make, if such annual payment is sufficient to meet the interest falling due on the bonds or debentures outstanding and the principal amount of the bonds or debentures maturing for payment in the year in which the annual payment is made;

bonds  
secured by  
provincial  
subsidy

- (f) the bonds or debentures issued by a charitable, educational or philanthropic corporation that are secured by the payment, assignment or transfer to a trust company in Canada of subsidies, payable by or under the authority of a province of Canada, sufficient to meet the interest as it falls due on the bonds or debentures and the principal amount of the bonds or debentures on maturity;

debentures  
secured by  
statutory  
charge on  
real estate,  
plant or  
equipment

- (g) the bonds, debentures or other evidences of indebtedness issued by a corporation that are fully secured by statutory charge upon real estate or upon the plant or equipment of the corporation used in the transaction of its business, if interest in full has been paid regularly for a period of at least ten years immediately preceding the date of investment in such bonds, debentures or other evidences of indebtedness upon the securities of that class of the corporation then outstanding;

revenue  
bonds

- (h) the bonds, debentures or other evidences of indebtedness issued by an authority or other body without share capital established and empowered pursuant to the law of a country in which the insurer is carrying on business, or of a province or state thereof, or of a colony, dependency, territory or possession thereof in which the insurer is carrying on business, to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway, tunnel, transportation, communication, sanitation, water, electricity or gas services or facilities and, for any of these purposes, to levy, impose or make taxes, rates, fees or other charges that,
  - (i) may be used only in carrying out the objects of the authority or other body and are sufficient to meet its operating, maintenance and debt service charges, or
  - (ii) in the case of an authority constituted by an Act of a national government, are fixed or authorized by law or subject to the approval of the government or a minister or ministry thereof or of a body responsible to the government or the minister or ministry;

- (i) the bonds, debentures or other evidences of indebtedness issued by a corporation that are fully secured by a mortgage, charge or hypothec to a trustee or to the insurer upon any, or upon any combination, of the following assets, bonds, etc.,  
secured by  
mortgage
  - (i) real estate or leaseholds,
  - (ii) the plant or equipment of a corporation that is used in the transaction of its business, or
  - (iii) bonds, debentures or other evidences of indebtedness or shares, of a class authorized by this subsection as investments, or cash balances if such bonds, debentures or other evidences of indebtedness, shares or cash balances are held by a trustee,and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized by this Act as investments shall not render such bonds, debentures or other evidences of indebtedness ineligible as an investment;
- (j) obligations or certificates issued by a trustee to finance the purchase of transportation equipment for a corporation incorporated in Canada or the United States of America to be used on railways or public highways, if the obligations or certificates are fully secured by, equipment  
trust  
certificates
  - (i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and
  - (ii) a lease or conditional sale thereof by the trustee to the corporation;
- (k) the bonds, debentures or other evidences of indebtedness issued or guaranteed by, debentures
  - (i) a corporation if, at the date of investment, the preferred shares or the common shares of the corporation are authorized as investments by clause *m* or *n*, or
  - (ii) a corporation if its earnings in a period of five years ended less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least  $1\frac{1}{2}$  times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it, other than indebtedness classified as a current liability in its balance sheet, and, if the corporation at the date of investment owns directly or indirectly more than 50 per cent of the common shares of another corporation, the earnings of the corporations during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the

corporation shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation, and, for the purpose of this subclause, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;

guaranteed  
investment  
certificates

- (l) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred shares or the common shares of the trust company are authorized as investments by clause *m* or *n*;

preferred  
shares

- (m) the preferred shares of a corporation if,
- (i) the corporation has paid a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or
  - (ii) the common shares of the corporation are, at the date of investment, authorized as investments by clause *n*;

common  
shares

- (n) the fully paid common shares of a corporation that during a period of five years that ended less than one year before the date of investment has either,
- (i) paid a dividend in each such year upon its common shares, or
  - (ii) had earnings in each such year available for the payment of a dividend upon its common shares,

of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid or in which the corporation had earnings available for the payment of dividends, as the case may be;

real estate  
mortgages

- (o) ground rents, mortgages, charges or hypothecs on real estate or leaseholds in Canada or in any country in which the insurer is carrying on business, but the amount paid for the mortgage, charge or hypothec together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the mortgage, charge or hypothec in which the investment is made shall not exceed three-quarters of the value of the real estate or leasehold covered thereby;

guaranteed  
or insured  
real estate  
mortgages

- (p) mortgages, charges or hypothecs on real estate or leaseholds in Canada or in any country in which the insurer is carrying on business or bonds or notes secured by such mortgages, charges or hypothecs, notwith-

standing that the mortgage, charge or hypothec exceeds the amount that the insurer is otherwise authorized to invest, if the excess is guaranteed or insured by, or through an agency of, the government of the country in which the real estate or leasehold is situated or of a province or state of that country or is insured by a policy of mortgage insurance issued by an insurance company licensed under this Act, the *Canadian and British Insurance Companies Act* (Canada) or the *Foreign Insurance Companies Act* (Canada);

R.S.C. 1952,  
cc. 31, 125

- (q) real estate or leaseholds for the production of income in Canada or in any country in which the insurer is carrying on business, either alone or jointly with any other insurance company transacting the business of insurance in Canada or with any loan corporation or trust company incorporated in Canada, if,

real estate  
for the  
production  
of income

- (i) a lease of the real estate or leasehold is made to, or guaranteed by,

(A) the government, or an agency of the government, of the country in which the real estate or leasehold is situated or of a province, state or municipality of that country, or

(B) a corporation, the preferred shares or common shares of which are, at the date of investment, authorized as investments by clause *m* or *n*,

- (ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least 85 per cent of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and

- (iii) the total investment of an insurer in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the insurer,

and the insurer may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold;

- (r) real estate or leaseholds for the production of income in Canada or in any country in which the insurer is carrying on business, either alone or jointly with any other insurance company transacting the business of insurance in Canada or with any loan corporation or trust company incorporated in Canada, if,

other real  
estate for  
the  
production  
of income

- (i) the real estate or leasehold has produced, in each of the three years immediately preceding the date of investment, net revenue in an amount that, if



continued in future years, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least 85 per cent of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and

- (ii) the total investment of an insurer in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the insurer,

and the company may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold.

Lending  
funds

(2) An insurer may lend its funds or any portion thereof on the security of,

authorized  
securities

- (a) any bonds, debentures or other evidences of indebtedness, shares or other securities in which the insurer may invest its funds under subsection 1 but the amount of the loan, together with the amount invested therein, if any, shall not exceed in the aggregate the amount that might be invested therein under this Part;

real estate  
mortgages

- (b) real estate or leaseholds for a term of years or other estate or interest in real estate in Canada or in any country in which the insurer is carrying on business but the amount of the loan together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or interest therein ranking equally with or prior to the loan shall not exceed 75 per cent of the value of the real estate or interest therein, except that an insurer may accept as part payment for real estate sold by it a mortgage, charge or hypothec for more than 75 per cent of the sale price of the real estate; or

guaranteed  
or insured  
real estate  
mortgages

- (c) real estate or leaseholds in Canada or in any country in which the insurer is carrying on business, notwithstanding that the loan exceeds the amount that the insurer is otherwise authorized to lend, if, to the extent of the excess, the mortgage, charge or hypothec thereon securing the loan is guaranteed or insured by, or through an agency of, the government of the country in which the real estate or leasehold is situated or of a province or state of that country or is insured by a policy of mortgage insurance issued by an insurance company licensed under this Act, the *Canadian and British Insurance Companies Act* (Canada) or the *Foreign Insurance Companies Act* (Canada).

(3) Where an insurer owns securities of a corporation and as a result of a *bona fide* arrangement for the reorganization or liquidation of the corporation or for the amalgamation of the corporation with another corporation, such securities are to be exchanged for bonds, debentures or other evidences of indebtedness or shares not authorized as investments by the foregoing provisions of this section, the insurer may accept such bonds, debentures or other evidences of indebtedness or shares and they shall be allowed as assets of the insurer in the annual report prepared by the Superintendent for the Minister, only for a period of five years after their acceptance, or such further period as the Lieutenant Governor in Council determines, unless it is shown to the satisfaction of the Lieutenant Governor in Council that such bonds, debentures or other evidences of indebtedness or shares are not inferior in status or value to the securities for which they have been substituted or unless they become eligible as investments under subsection 1.

Securities  
received on  
reorganiza-  
tion,  
liquidation  
or  
amalgama-  
tion

(4) An insurer who is a joint stock insurance company or a cash-mutual insurance corporation may make investments or loans not hereinbefore authorized by this section subject to the following provisions,

Other  
assets

- (a) investments in real estate or leaseholds under this subsection shall be made only for the production of income, and may be made by the insurer in Canada or in any country in which the insurer is carrying on business, either alone or jointly with any other insurance company transacting the business of insurance in Canada, and the insurer may hold, maintain, improve, develop, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds, but the total investment of an insurer under this subsection in any one parcel of real estate or in any one leasehold shall not exceed 1 per cent of the book value of the total assets of the insurer;
- (b) this subsection shall be deemed not to enlarge the authority conferred by subsections 1 and 2 to invest in mortgages, charges or hypothecs and to lend on the security of real estate or leaseholds; and
- (c) the total book value of the investments and loans made under this subsection and held by the insurer excluding those that are or at any time since acquisition have been authorized as investments apart from this subsection, shall not exceed 7 per cent of the book value of the total assets of the insurer.

real estate  
for the  
production  
of income

exemption

limitation

(5) An insurer licensed to transact the business of life insurance may invest or lend its life insurance funds or any portion thereof in the purchase of, or on the security of, policies of life insurance issued by the insurer or by any other insurance company licensed to transact the business of life insurance in Canada.

Life  
insurance  
policies

National  
Housing  
Acts

(6) Notwithstanding anything in this Act or in any other Act, an insurer may,

1953-54,  
c. 23 (Can.)

(a) lend its funds or any portion thereof on the security of real estate pursuant to the *National Housing Act, 1954* (Canada), or any amendments thereto, or may make loans on the security of real estate or leaseholds or other estate or interest therein in excess of 75 per cent of the value of the real estate or interest therein that forms the security for such loan or in excess of the amount that may be loaned in accordance with that Act, or any amendments thereto, where the amount of the excess is guaranteed by the Lieutenant Governor in Council or by a municipality under *The Housing Development Act*;

R.S.O. 1970,  
c. 213

(b) if it is licensed to transact the business of life insurance, cause to be formed, or may join with one or more insurance companies licensed to transact the business of life insurance in forming one or more institutional holding companies and one or more institutional housing corporations as defined in the *National Housing Act, 1954* (Canada), and may invest its funds in shares or debentures of such holding companies and in shares of such housing corporations to an aggregate amount that, when added to the aggregate amount invested by such insurer under clause c, does not exceed 5 per cent of its total assets in Canada allowed by the Superintendent; and

(c) if it is licensed to transact the business of life insurance, invest its funds to an aggregate amount not exceeding 5 per cent of its total assets in Canada allowed by the Superintendent in any other classes or types of investment pursuant to the *National Housing Act, 1954* (Canada), or any amendments thereto, including the purchase of land, the improvement thereof, construction of buildings thereon, and the management and disposal of such land and buildings.

Guaranteed  
loans under  
1964-65,  
c. 24 (Can.)  
R.S.C. 1952,  
c. 110  
1955, c. 46  
(Can.)  
1960-61, c. 5  
(Can.)

(7) An insurer may make guaranteed loans under and in accordance with the provisions of the *Canada Student Loans Act* (Canada), the *Farm Improvement Loans Act* (Canada), the *Fisheries Improvement Loans Act* (Canada) or the *Small Businesses Loans Act* (Canada).

Power to  
invest in  
shares of  
certain  
corporations

(8) Notwithstanding anything in subsection 1, an insurer licensed under the laws of Ontario to transact the business of life insurance may invest its funds in the fully paid shares of,

(a) any corporation incorporated outside Canada to undertake contracts of life insurance;

- (b) any corporation incorporated to provide the insurer or a corporation mentioned in clause *a* with advisory, management or sales distribution services in respect of life insurance contracts or annuities the reserves for which vary in amount depending on the market value of a specified group of assets maintained in a separate and distinct fund;
- (c) any corporation incorporated under the laws of Canada or any province thereof to undertake contracts of insurance other than contracts of life insurance;
- (d) any corporation incorporated to acquire, hold, maintain, improve, lease or manage real estate or leaseholds;
- (e) any corporation incorporated to offer public participation in an investment portfolio;
- (f) any corporation incorporated to provide a corporation mentioned in clause *e* with advisory, management or sales distribution services; or
- (g) with the prior approval of the Minister, any corporation incorporated to carry on any other business reasonably ancillary to the business of insurance,

subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

(9) An insurer may take any additional securities of any nature to further secure repayment to it of any loan or investment or to further secure the sufficiency of any of the securities in or upon which it is by this section authorized to invest or lend any of its funds.

Additional security may be taken

(10) Where the constitution, by-laws or rules of an insurer prescribe the securities in which its funds may be invested, nothing in this section enlarges the power of investment.

By-laws to prevail

(11) The Superintendent may direct an insurer to dispose of and realize any of its investments acquired after the 1st day of May, 1928, and not authorized by this Part, and such insurer shall within sixty days after receiving such direction absolutely dispose of and realize such investments, and, if the amount realized therefrom falls below the amount paid by such insurer for such investments, the directors of the insurer are jointly and severally liable for the payment to such insurer of the amount of the deficiency, but if any director present at the meeting at which such investment is authorized, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such investment and is able to do so, delivers or sends to the insurer by registered mail his protest against such investment, and, within eight days thereafter, sends a copy thereof by registered mail to the Superintendent, such director thereby and not otherwise exonerates himself from such liability. 1970, c. 134, s. 17, *part*.

Disposal of unauthorized investments



Investments  
of other  
insurers

**384.** An insurer who is not a joint stock insurance company, a fraternal society, a mutual insurance corporation or a cash-mutual insurance corporation may invest its funds in securities described in clauses *a* to *l* and clauses *o* and *p* of subsection 1 of section 383 and may lend its funds on the security of any such securities. 1970, c. 134, s. 17, *part*.

Restrictions  
and  
limitations

**385.** The following restrictions, limitations and prohibitions apply to insurers in the exercise of the investment powers under sections 383 and 384,

- (a) an insurer not licensed to transact the business of life insurance shall not invest in or lend its funds upon the security of its own shares or the shares of any corporation transacting the business of insurance;
- (b) an insurer licensed to transact the business of life insurance shall not,
  - (i) invest in the shares of a corporation incorporated in Canada to undertake contracts of life insurance,
  - (ii) lend its funds upon the security of its own shares, or
  - (iii) except as provided in section 241 of *The Corporations Act*, invest in or purchase its own shares;
- (c) except as to securities issued or guaranteed by the Government of Canada or the government of a province of Canada or a municipal corporation in Canada, an insurer shall not invest in any one security or make a total investment in any one corporation, either by the purchase of shares or other securities of such corporation or by lending to it on the security of its debentures or other assets or any part thereof, of more than 10 per cent of the book value of the total assets of the insurer;
- (d) except as to investments made under subsection 8 of section 383 and as to securities guaranteed by the Government of Canada or the government of a province of Canada or by a municipal corporation in Canada, an insurer shall not make any investment the effect of which will be that it will hold more than 30 per cent of the common shares or 30 per cent of the total issued shares of any one corporation;
- (e) the total book value of the investments of an insurer in common shares, other than its own common shares purchased under section 241 of *The Corporations Act*, shall not exceed 25 per cent of the book value of the total assets of the insurer;
- (f) the total book value of the investments of an insurer in real estate or leaseholds for the production of income under clauses *q* and *r* of subsection 1 of section 383 and subsection 4 of section 383 shall not exceed 10 per cent of the book value of the total assets of the insurer;

R.S.O. 1970,  
c. 89

- (g) an insurer shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which the payment of principal or interest is in default; and
- (h) an insurer shall not act as an underwriter in connection with the purchase or sale of any securities or other property of any kind. 1970, c. 134, s. 17, *part*.

**386.**—(1) An insurer shall not knowingly make an investment, other than a loan on the security of a policy of life insurance issued by it, Prohibited loans and investments

- (a) by way of a loan to,
  - (i) a director or officer of the insurer, or a spouse or child of such director or officer, or
  - (ii) an individual, his spouse or any of his children under twenty-one years of age if either the individual or a group consisting of the individual, his spouse and such children is a substantial shareholder of the insurer;
- (b) in a corporation that is a substantial shareholder of the insurer; or
- (c) in a corporation in which,
  - (i) an individual mentioned in subclause i of clause a,
  - (ii) an individual who is a substantial shareholder of the insurer,
  - (iii) another corporation that is a substantial shareholder of the insurer, or
  - (iv) a group consisting exclusively of individuals mentioned in subclause i of clause a,
 has a significant interest.

(2) An insurer shall not knowingly retain an investment mentioned in subsection 1. Disposition

(3) For the purpose of this section,

- (a) a person has a significant interest in a corporation, or a group of persons has a significant interest in a corporation if, Interpretation  
"significant interest"
  - (i) in the case of a person, he owns beneficially, either directly or indirectly, more than 10 per cent, or
  - (ii) in the case of a group of persons, they own beneficially, either individually or together and either directly or indirectly, more than 50 per cent,
 of the shares of the corporation for the time being outstanding;
- (b) a person is a substantial shareholder of a corporation or a group of persons is a substantial shareholder of a "substantial shareholder"

corporation if that person or group of persons owns beneficially, either individually or together and either directly or indirectly, equity shares to which are attached more than 10 per cent of the voting rights attached to all of the equity shares of the corporation for the time being outstanding; and in computing the percentage of voting rights attached to equity shares owned by an underwriter, there shall be excluded the voting rights attached to equity shares acquired by him as an underwriter during the course of distribution to the public by him of such shares;

“equity share”

- (c) “equity share” means a share of any class to which are attached voting rights exercisable under all circumstances and a share of any class to which are attached voting rights by reason of the occurrence of any contingency that has occurred and is continuing;

“investment”

- (d) “investment” means,  
 (i) an investment in a corporation by way of purchase of bonds, debentures, notes or other evidences of indebtedness thereof or shares thereof, or  
 (ii) a loan to a person or persons,

but does not include any normal working balance between an insurer and any other corporation transacting the business of insurance or any advance or loan that is merely ancillary to the main business of the insurer; and

“officer”

- (e) notwithstanding paragraph 45 of section 1, “officer” means only the president, a vice-president, the secretary, the treasurer, the manager, the controller and the actuary of an insurer and any other person designated as an officer of the insurer by by-law or by resolution of the directors thereof.

“Down-stream” investment

(4) For the purposes of this section, where a person or a group of persons owns beneficially, directly or indirectly, or is deemed by this subsection to own beneficially, shares of a corporation, that person or group of persons shall be deemed to own beneficially that proportion of the shares of any other corporation that is owned beneficially, directly or indirectly, by the first-mentioned corporation, that is equal to the proportion of the shares of the first-mentioned corporation that is owned beneficially, directly or indirectly, or is deemed by this subsection to be owned beneficially, by that person or group of persons.

Exception

(5) Notwithstanding subsection 4, an insurer is not prohibited from making an investment in a corporation only because a person or a group of persons that owns beneficially, directly or indirectly, or is deemed to own beneficially equity shares of the insurer is, by reason of that subsection, deemed to own beneficially equity shares of such corporation.

(6) Where any person or group of persons is a substantial shareholder of an insurer and, as a consequence thereof and of the application of this section, certain investments are prohibited for the insurer, the Minister may, on the advice of the Superintendent, and on application by the insurer, exempt from such prohibition any particular investment or investments of any particular class if he is satisfied,

Exemption

- (a) that the decision of the insurer to make or hold any investment so exempted has not been and is not likely to be influenced in any significant way by that person or group, and does not involve in any significant way the interests of that person or group apart from their interests as a shareholder of the insurer; and
- (b) that the investment is to be made under the power granted to the insurer under this Part.

(7) Any order of exemption made by the Minister under subsection 6 may contain any conditions or limitations considered by the Minister to be appropriate and may be revoked by the Minister at any time. 1970, c. 134, s. 17, *part*.

Idem

**387.**—(1) All investments and deposits of the funds of an insurer shall be made in its corporate name.

Investments in corporate name

(2) Every insurer shall at all times retain in Canada and under its own control assets of a value at least equal to its total liabilities to its policyholders in Canada.

Assets in Canada

(3) Where the laws of any province, state or country in which any insurer transacts or is about to transact business require that the deposits made or to be made by such insurer in such province, state or country shall be made in the name of or transferred or assigned to any person or corporation other than the insurer, this section does not prohibit such insurer from making in the name of, or transferring or assigning to, such other person or corporation the investments and deposits necessary to comply with the said laws.

Deposits outside Canada

(4) No director or officer of an insurer and no member of a committee having any authority in the investment or disposition of its funds shall accept or be the beneficiary of, either directly or indirectly, any fee, brokerage, commission, gift or other consideration for or on account of any loan, deposit, purchase, sale, payment or exchange made by or on behalf of such insurer, or be pecuniarily interested in any such purchase, sale or loan, either as borrower, principal, co-principal, agent or beneficiary, except that, if he is a policyholder, he is entitled to all the benefits accruing under the terms of his contract.

Prohibition on directors or officers receiving fees or gifts

(5) Except as in this section provided, all the securities of an insurer incorporated and licensed under the laws of Ontario shall be held at the head office of the insurer or elsewhere in Ontario

Securities to be held in Ontario



and the holding of securities, wherever situated, is subject to such regulations respecting their safekeeping, including registration and the bonding of directors, officers and employees of the insurer, as the Lieutenant Governor in Council may prescribe. 1970, c. 134, s. 17, *part.*

## PART XVIII

### UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN THE BUSINESS OF INSURANCE

Interpre-  
tation

#### **388.** For the purposes of this Part,

- (a) “person” means a person engaged in the business of insurance and includes any individual, corporation, association, partnership, reciprocal or inter-insurance exchange, member of the society known as Lloyds, fraternal society, mutual benefit society, agent, broker or adjuster;
- (b) “unfair or deceptive acts or practices in the business of insurance” includes,
  - (i) the commission of any act prohibited under this Act or the regulations;
  - (ii) any unfair discrimination between individuals of the same class and of the same expectation of life, in the amount or payment or return of premiums, or rates charged by it for contracts of life insurance or annuity contracts, or in the dividends or other benefits payable thereon or in the terms and conditions thereof,
  - (iii) any unfair discrimination in any rate or schedule of rates between risks in Ontario of essentially the same physical hazards in the same territorial classification,
  - (iv) any illustration, circular, memorandum or statement that misrepresents, or by omission is so incomplete that it misrepresents, the terms, benefits or advantages of any policy or contract of insurance issued or to be issued,
  - (v) any false or misleading statement as to the terms, benefits or advantages of any contract or policy of insurance issued or to be issued,
  - (vi) any incomplete comparison of any policy or contract of insurance with that of any other insurer for the purpose of inducing, or intending to induce, an insured to lapse, forfeit or surrender a policy or contract,
  - (vii) any payment, allowance or gift, or any offer to pay, allow or give, directly or indirectly, any money or

thing of value as an inducement to any prospective insured to insure,

(viii) any charge by a person for a premium allowance or fee other than as stipulated in a contract of insurance upon which a sales commission is payable to such person, or

(ix) any consistent practice or conduct that results in unreasonable delay or resistance to the fair adjustment and settlement of claims. 1970, c. 134, s. 17, *part.*

**389.** No person shall engage in any unfair or deceptive act or practice in the business of insurance. 1970, c. 134, s. 17, *part.* Prohibition

**390.** The Superintendent may examine and investigate the affairs of every person engaged in the business of insurance in Ontario in order to determine whether such person has been, or is, engaged in any unfair or deceptive act or practice. 1970, c. 134, s. 17, *part.* Superintendent may investigate

**391.—**(1) Where it appears to the Superintendent that any person is engaging in any unfair or deceptive act or practice in the business of insurance, the Superintendent may order that such person cease engaging in his business or any part thereof named in the order, and an order under this subsection may be made subject to such terms and conditions as the Superintendent may specify in the order and the order may be revoked when the Superintendent is satisfied that the unfair and deceptive acts or practices are corrected and not likely to recur. Order of Superintendent

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Superintendent the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof or such longer time as is consented to by the person entitled to the hearing. Hearing

(3) A notice of every order made under this Part shall be served upon every person named therein and upon such other persons as the Superintendent considers appropriate and thereupon no person shall engage in that part of the business of insurance that is the subject of the order. 1970, c. 134, s. 17, *part.* Service and effect of order

**392.** Any person who contravenes an order of the Superintendent made under this Part is, in addition to any other consequence or remedy provided by law, guilty of an offence punishable in the same manner as if the person were undertaking insurance or carrying on business in Ontario without holding a licence to do so. 1970, c. 134, s. 17, *part.* Penalty

## SCHEDULE A

(Section 95)

## INSURERS

(Section 23)

## 1. Licences and annual renewals thereof:

(1) Mutual benefit societies,	
(a) having fewer than 300 members . . . . .	\$ 10
(b) having 300 members or over . . . . .	20
(2) Pension fund associations . . . . .	100
(3) Fraternal societies,	
(a) where the assets of the society do not exceed \$100,000 . . . .	50
(b) where the assets of the society exceed \$100,000 but do not exceed \$500,000 . . . . .	100
(c) where the assets of the society exceed \$500,000 but do not exceed \$1,000,000 . . . . .	150
(d) where the assets of the society exceed \$1,000,000 but do not exceed \$10,000,000 . . . . .	200
(e) where the assets of the society exceed \$10,000,000 . . . . .	250
but the fee shall not exceed \$150 if the premium income, including dues, in Ontario does not exceed \$50,000 as shown in the last annual statement of the society required to be filed with the Superintendent under section 79.	
(4) Reciprocal or inter-insurance exchanges . . . . .	200
(5) Mutual insurance corporations without guarantee capital stock, incorporated for the purpose of undertaking contracts of fire insurance upon agricultural property, weather insurance or live stock insurance, on the premium note plan,	
(a) where the gross amount at risk does not exceed \$1,000,000 . . . . .	25
(b) where the gross amount at risk exceeds \$1,000,000 but does not exceed \$5,000,000 . . . . .	50
(c) where the gross amount at risk exceeds \$5,000,000 but does not exceed \$10,000,000 . . . . .	75
(d) where the gross amount at risk exceeds \$10,000,000 but does not exceed \$20,000,000 . . . . .	100
(e) where the gross amount at risk exceeds \$20,000,000 but does not exceed \$30,000,000 . . . . .	150
(f) where the gross amount at risk exceeds \$30,000,000 but does not exceed \$40,000,000 . . . . .	200
(g) where the gross amount at risk exceeds \$40,000,000 but does not exceed \$50,000,000 . . . . .	250
(h) where the gross amount at risk exceeds \$50,000,000 . . . .	300
NOTE.—“gross amount at risk” means gross amount at risk in Ontario as at the 31st December next preceding the application for licence or renewal thereof.	
(6) The Non-Marine Underwriters Members of Lloyd’s, London	500
(7) Insurers authorized to transact live stock insurance exclusively	100
(8) Insurers undertaking reinsurance exclusively . . . . .	100
(9) Insurers not included within sub-items 1 to 8,	
(a) where the assets of the insurers do not exceed \$500,000 . . .	200
(b) where the assets of the insurers exceed \$500,000 but do not exceed \$1,000,000 . . . . .	250
(c) where the assets of the insurers exceed \$1,000,000 but do not exceed \$5,000,000 . . . . .	300
(d) where the assets of the insurers exceed \$5,000,000 but do not exceed \$10,000,000 . . . . .	400

(e) where the assets of the insurers exceed \$10,000,000 but do not exceed \$20,000,000 .....	\$450
(f) where the assets of the insurers exceed \$20,000,000 .....	500

but the fee shall not exceed \$300 if the net premiums written in Ontario, including considerations for annuities, do not exceed \$50,000 as shown in the last annual statement of the insurer required to be filed with the Superintendent under section 79.

NOTE.—The assets of a Fraternal Society and of an insurer as used in this item means, if its head office is in Canada, the total gross assets of the insurer wherever situate, as exhibited by the balance sheet of the insurer at the end of the last preceding accounting period of the insurer, and as issued to the public in Canada, or, if its head office is not in Canada, the equivalent in Canadian currency at the current rate of exchange of its total assets exhibited by the head office balance sheet in the currency of the country where its head office is situate.

2. Renewal of licence of insurers that have discontinued undertaking or renewing insurance contracts in the Province, except mutual benefit societies and insurers renewing life insurance policies. ....	20
3. Examining and passing upon applications for initial licence (section 23):	
(1) Mutual benefit societies. ....	20
(2) All others. ....	50
4. Amendment of licence. ....	20
5. Order in Council withdrawing or transferring deposit (sections 48 and 76). ....	50
6. Substitution of securities on deposit (except matured securities) calculated on the par value of securities withdrawn (section 46):	
Under \$10,000. ....	10
\$10,000 and under \$25,000. ....	20
\$25,000 and over. ....	25
7. Filing annual statements (section 79). ....	10
8. Extension of time not exceeding seven days or any renewal thereof not exceeding seven days, for filing annual statement, applications for renewal of licence, or any other document or information required under this Act, but the Superintendent may grant relief from the payment of this fee in any case in which he thinks, for reasons appearing to him to be sufficient, that it should not be imposed. ....	10
9. Licences and renewals thereof to issue contracts of insurance through an underwriters agency, term to expire on the 30th day of June in each year (section 88). ....	150
10. Order in Council authorizing bonds for Court purposes (section 19). ....	200
11. Order in Council authorizing society to hold land (section 82). . . .	25
12. Order in Council authorizing reciprocal deposits (section 72). . . .	25

#### AGENTS, BROKERS AND ADJUSTERS

(Sections 342, 344, 346 and 350)

13. Licence for life insurance or life and accident insurance or life and accident and sickness insurance,	
(a) where the applicant is a resident of Ontario. ....	10
(b) where the applicant is not a resident of Ontario,	
(i) if he resides in a province or state that grants licences to residents of Ontario, the same fee as is	



payable by a resident of that province or state for a similar licence in the province or state, or \$10 whichever is the greater,	
(ii) if he resides in a province or state that does not grant licences to residents of Ontario . . . . .	\$50
(c) transfer or revival of licence . . . . .	2
(d) where the applicant is a corporation . . . . .	25
14. Licences for any class of insurance, other than life insurance and renewals thereof,	
(a) where the applicant is not a transportation company, and the licence is expressly limited to accident insurance, or accident and sickness insurance, or travel-accident and baggage insurance, or customs bonds . . . . .	10
(b) where the applicant is not a resident of Ontario and resides in a province or state that,	
(i) grants licences to residents of Ontario . . . . .	25
(ii) does not grant licences to residents of Ontario . . . . .	50
(c) where the applicant is a corporation . . . . .	25
(d) for transfer or revival of a licence . . . . .	2
(e) all other applicants . . . . .	25
15. Licences for insurance brokers and renewals thereof whether corporate or otherwise . . . . .	25
16. Licences for special insurance brokers for business with unlicensed insurers and renewals thereof . . . . .	50
17. Licences for insurance adjusters and renewals thereof:	
Each sole proprietor, partnership or corporation . . . . .	50
and \$15 for each active member thereof.	
18. Licences under subsection 19 of section 342 in the name of a transportation company authorizing its ticket salesmen to act as agent for travel-accident insurance, live stock insurance or baggage insurance, and renewals thereof . . . . .	25
19. The fee for a written examination by an agent, broker or adjustor applicant . . . . .	10

#### MISCELLANEOUS

20. Certificate of Superintendent . . . . .	2
21. Copies of or extracts from documents filed with or issued by the Superintendent, per folio of 100 words . . . . .	1
22. Certified copy of licence . . . . .	2
23. Where the fee payable for a licence under section 23 or 88 exceeds \$15, the fee for a period of six months or under shall be one-half of the fee payable for the full term.	
24. Examining and passing upon applications or documents in connection with any matter not specifically referred to in this Schedule . . .	25
Order in Council . . . . .	200

R.S.O. 1960, c. 190, Sched. A; 1968, c. 58, s. 6; 1968-69, c. 53, s. 19;  
O. Reg. 267/70, s. 1.

SCHEDULE B

(Section 128)

PREMIUM NOTE

(Place)

(Date)

In consideration of insurance granted under Policy No. ....  
I hereby promise to pay the. .... Company  
at. .... (place of payment) the sum of. .... dollars, as follows:  
on. .... day of. ...., 19. ...., in full of cash payment, .... dollars

—or—

on. .... day of. ...., 19. ...., 1st instalment of cash payment. .... dollars;  
on. .... day of. ...., 19. ...., 2nd instalment of cash payment. .... dollars;  
on. .... day of. ...., 19. ...., 3rd instalment of cash payment. .... dollars;

—and—

upon notice such further sums not exceeding, in the aggregate, the face amount of  
this note as may be lawfully assessed hereon by the directors of the said Company  
under *The Insurance Act*.

**An action that may be brought or commenced in a small claims court  
in respect or on account of this note, or any sum to be assessed thereon,  
may be brought and commenced against the maker hereof in the small  
claims court for the division in which the head office or an agency of the  
insurer is located.**

\$. ....

.....  
Signature of Insured

.....  
Post Office Address

R.S.O. 1960, c. 190, Sched. B; 1966, c. 71, s. 18, *amended*.

SCHEDULE C

(Section 331)

No. .... Term of licence. .... to. ....

THE INSURANCE ACT  
ONTARIO

RECIPROCAL INSURANCE LICENCE

This is to certify that. ....  
being an exchange within the meaning of *The Insurance Act*, has complied with the  
said Act; and the subscribers of the said exchange are hereby licensed and  
authorized for and during the term beginning on the. ....  
day of. ...., 19. ...., and ending on the. .... day of  
....., 19. ...., to exchange reciprocal contracts of indemnity or  
inter-insurance (*here state class of insurance*).

.....  
Superintendent of Insurance

R.S.O. 1960, c. 190, Sched. C; 1964, c. 47, s. 12.

## SCHEDULE D

*(Section 83)*MINIMUM STANDARDS OF VALUATION OF  
LIFE INSURANCE CONTRACTS

1. As respects benefits depending upon life contingencies only in or arising out of policies of life insurance, other than industrial policies and excluding life annuity settlements, the bases of valuation for any particular class or group of policies shall be an assumed rate of interest not exceeding  $3\frac{1}{2}$  per cent per annum and one of the tables of mortality specified below, or any other table that is approved by the Superintendent.

*Tables of Mortality*

- (i) American Experience Table, Am. Exp.
- (ii) Institute of Actuaries of Great Britain, H<sup>m</sup>
- (iii) British Offices Life Tables, 1893, O<sup>m</sup> (5)
- (iv) Canadian Men Table, C<sup>m</sup> (5)
- (v) American Men Table, A<sup>m</sup> (5)
- (vi) Mortality of Assured Lives, A 1924-29
- (vii) Commissioners 1941 Standard Ordinary Mortality Table, 1941 CSO
- (viii) Commissioners 1958 Standard Ordinary Mortality Table, 1958 CSO

The value of the policy as of any date after issue shall be the difference between the then value of the sum assured thereunder (including the then value of any bonus or addition thereto, or reduction in future premiums, made after the date of issue of the policy and subsisting as at the date of valuation), and the then value of the valuation premiums (as hereinafter defined) assumed to be payable on each anniversary of the policy following the date of valuation during the term for which premiums are required to be paid in accordance with the terms of the policy to be valued.

If the net level premium for the life insurance risks incurred by the company in issuing the policy does not exceed the whole life net level premium for a like amount of whole life insurance, the valuation premium shall be the net level premium for a like policy as of an age one year greater than the age at entry assumed to be payable at the beginning of the second and each subsequent policy year for which premiums are payable under the terms of the policy to be valued.

If the net level premium for the life insurance risks incurred by the company in issuing the policy exceeds the net level premium payable throughout life for a like amount of whole life insurance, the valuation premium shall be obtained by adding to each net level annual premium, excluding the first, such an amount, assumed to be payable at the beginning of the second and each subsequent policy year for which premiums are payable under the terms of the policy to be valued, as is equal in value as of the date of issue of the policy to the difference between the net level premiums payable throughout life for a whole life policy and the one-year term premium for, in each case, a policy of like amount and of the same age at entry as the policy to be valued.

2. As respects benefits depending upon life contingencies only in or arising out of industrial life insurance policies, excluding life annuity settlements, the basis of valuation for any particular class or group of policies shall be an assumed rate of interest not exceeding  $3\frac{1}{2}$  per cent per annum and one of the tables of mortality specified below, or any other table that is approved by the Superintendent.

*Tables of Mortality*

- (i) Any of the tables named under paragraph 1 above.
- (ii) The Standard Industrial Table.
- (iii) 1941 Standard Industrial Mortality Table, 1941 SI.

No reserve shall be held at any valuation within the first year after issue of any policy. In valuations thereafter the insurance risks of the first policy year shall be ignored, and, for valuation purposes, the date of issue of the policy shall be assumed to be one year after the actual date of issue, the age at issue shall be assumed to be one year greater than the actual age at issue, and the premium terms shall be assumed to commence as of the assumed date of issue and to be co-terminous with the premium term stated in the policy to be valued.

The valuation premium shall be such a level premium as of the assumed age at issue, payable for the assumed premium term, as is equal in the then present value to the insurance risks incurred by the Company as from the attainment of the assumed age at issue.

In valuations made as of any date after the attainment of the assumed age at issue, the value of the policy shall be the difference between the then value of the sums assured (including the then value of any bonus or addition thereto, or reduction in future premiums, made after the date of issue of the policy and subsisting as of the date of valuation) and the then value of the valuation premium assumed to be payable following the date of valuation during the term for which premiums are required to be paid in accordance with the terms of the policy.

If the terms of any particular class or group of policies are such that the above method of valuation appears to be inapplicable or inappropriate, adaptations in the above method may be made, subject to the approval of the Superintendent.

3. As respects immediate or deferred life annuities, including life annuity settlements (other than disability annuities) arising out of policies of life insurance, the bases of valuation shall be an assumed rate of interest not exceeding 4 per cent per annum and one of the tables of mortality specified below, male or female, according to the sex of the nominee, or any other table of mortality that is approved by the Superintendent.

*Tables of Mortality*

- (i) Mortality of Annuitants, 1900-1920, a(f) and a(m).
- (ii) 1937 Standard Annuity Table.
- (iii) The a-1949 Table (Annuity Table for 1949).
- (iv) The a(55) Tables for Annuitants.

In the valuation of deferred annuities, the method of valuation shall be the net level premium method, subject to such adaptations as the Superintendent considers appropriate in any case where the premium may not be uniform throughout the premium-paying period.

4. As respects future payments dependent on a term certain only, including term-certain annuities arising out of policies of life insurance, the valuation shall be made at a rate of interest not exceeding 4 per cent per annum, and the method of valuation shall be the net level premium method, subject to such adaptations as the Superintendent considers appropriate in any case where the premium for the policy may not be uniform throughout the premium-paying period.

5. Policies other than those at uniform annual premiums for a uniform amount of insurance throughout shall be valued on bases determined in accordance with the foregoing provisions with such adaptations in the valuation methods as seem to the Superintendent appropriate in the circumstances.

6. Where a policy of life insurance provides for accident or sickness insurance benefits, the Superintendent may prescribe the basis for valuing such benefits.





## CHAPTER 225

## The Interpretation Act

**1.**—(1) The provisions of this Act apply to every Act of the Legislature contained in these Revised Statutes or hereafter passed, except in so far as any such provision,

Application  
of Act

- (a) is inconsistent with the intent or object of the Act; or
- (b) would give to a word, expression or provision of the Act an interpretation inconsistent with the context; or
- (c) is in the Act declared not applicable thereto.

(2) Sections 2, 4, 9, 27 and 30 apply to the regulations made under the authority of an Act. R.S.O. 1960, c. 191, s. 1.

Application  
of certain  
sections to  
regulations

**2.** Where an Act contains an interpretation provision, it shall be read and construed as subject to the exceptions contained in subsection 1 of section 1. R.S.O. 1960, c. 191, s. 2.

Interpre-  
tation  
provisions in  
other Acts

**3.** The provisions of this Act apply to the construction of it and to the words and expressions used in it. R.S.O. 1960, c. 191, s. 3.

Application  
to this Act

## RULES OF CONSTRUCTION

**4.** The law shall be considered as always speaking and, where a matter or thing is expressed in the present tense, it is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part of it according to its true intent and meaning. R.S.O. 1960, c. 191, s. 4.

Law always  
speaking

**5.** Where an Act is not to come into operation immediately on the passing thereof and confers power to make an appointment, to make, grant or issue an order, warrant, scheme, letters patent, rules, regulations or by-laws, to give notices, to prescribe forms, or to do any thing for the purposes of the Act, that power may be exercised at any time after the passing of the Act, but an instrument made under the power, unless the contrary is necessary for bringing the Act into operation, does not come into operation until the Act comes into operation. R.S.O. 1960, c. 191, s. 5.

What may  
be done  
under an  
Act before  
it is in  
operation

**6.** Where an Act confers power to make, grant or issue an order, warrant, scheme, letters patent, rule, regulation or by-law, expressions used therein, unless the contrary intention appears, have the same meaning as in the Act conferring the power. R.S.O. 1960, c. 191, s. 6.

Meaning of  
expressions  
used in  
instruments  
issued under  
an Act

- Judicial notice      **7.**—(1) Every Act shall be judicially noticed by judges, justices of the peace and others without being specially pleaded.
- Idem      (2) Every proclamation shall be judicially noticed by judges, justices of the peace and others without being specially pleaded. R.S.O. 1960, c. 191, s. 7.
- Effect of preamble      **8.** The preamble of an Act shall be deemed a part thereof and is intended to assist in explaining the purport and object of the Act. R.S.O. 1960, c. 191, s. 8.
- Marginal notes, headings, etc., not part of Act      **9.** The marginal notes and headings in the body of an Act and references to former enactments form no part of the Act but shall be deemed to be inserted for convenience of reference only. R.S.O. 1960, c. 191, s. 9.
- All Acts remedial      **10.** Every Act shall be deemed to be remedial, whether its immediate purport is to direct the doing of anything that the Legislature deems to be for the public good or to prevent or punish the doing of any thing that it deems to be contrary to the public good, and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act according to its true intent, meaning and spirit. R.S.O. 1960, c. 191, s. 10.
- The Crown      **11.** No Act affects the rights of Her Majesty, Her heirs or successors, unless it is expressly stated therein that Her Majesty is bound thereby. R.S.O. 1960, c. 191, s. 11.
- Private Acts      **12.** No Act of the nature of a private Act affects the rights of any person, or body corporate, politic or collegiate, such only excepted as are therein mentioned or referred to. R.S.O. 1960, c. 191, s. 12.

#### REPEAL, AMENDMENT AND CONSOLIDATION

- Reservation of power to repeal or amend      **13.** Every Act shall be construed as reserving to the Legislature the power of repealing or amending it, and of revoking, restricting, or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever the repeal, amendment, revocation, restriction or modification is considered by the Legislature to be required for the public good. R.S.O. 1960, c. 191, s. 13.
- Repeal, effect      **14.**—(1) Where an Act is repealed or where a regulation is revoked, the repeal or revocation does not, except as in this Act otherwise provided,
- (a) revive any Act, regulation or thing not in force or existing at the time at which the repeal or revocation takes effect;

- (b) affect the previous operation of any Act, regulation or thing so repealed or revoked;
- (c) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the Act, regulation or thing so repealed or revoked;
- (d) affect any offence committed against any Act, regulation or thing so repealed or revoked, or any penalty or forfeiture or punishment incurred in respect thereof;
- (e) affect any investigation, legal proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the Act, regulation or thing had not been so repealed or revoked.

(2) If other provisions are substituted for those so repealed or revoked, When other provisions substituted

- (a) all officers and persons acting under the Act, regulation or thing so repealed or revoked, shall continue to act as if appointed under the provisions so substituted until others are appointed in their stead;
- (b) all proceedings taken under the Act, regulation or thing so repealed or revoked, shall be taken up and continued under and in conformity with the provisions so substituted, so far as consistently may be;
- (c) in the recovery or enforcement of penalties and forfeitures incurred, and in the enforcement of rights existing or accruing under the Act, regulation or thing so repealed or revoked, or in any other proceeding in relation to matters that have happened before the repeal or revocation, the procedure established by the substituted provisions shall be followed so far as it can be adopted; and
- (d) if any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions of the Act, regulation or thing whereby such other provisions are substituted, the penalty, forfeiture or punishment, if imposed or adjudged after such repeal or revocation, shall be reduced or mitigated accordingly. R.S.O. 1960, c. 191, s. 14.

**15.** Where an Act is repealed and other provisions are substituted by way of re-enactment, amendment, revision or consolidation, Re-enactment, amendment, consolidation and revision

- (a) all regulations, orders, rules and by-laws made under the repealed Act continue good and valid in so far as they



are not inconsistent with the substituted Act until they are annulled and others made in their stead; and

- (b) a reference in an unrepealed Act, or in a rule, order or regulation made thereunder to such repealed Act, shall, as regards any subsequent transaction, matter or thing be held and construed to be a reference to the provisions of the substituted Act relating to the same subject matter and, if there is no provision in the substituted Act relating to the same subject matter, the repealed Act stands good and shall be read and construed as unrepealed in so far, and in so far only, as is necessary to support, maintain or give effect to such unrepealed Act, or such rule, order or regulation made thereunder. R.S.O. 1960, c. 191, s. 15.

Repeal of  
Act not a  
declaration  
that Act was  
in force

**16.** The repeal of an Act shall be deemed not to be or to involve a declaration that the Act was or was considered by the Legislature to have been previously in force. R.S.O. 1960, c. 191, s. 16.

Repeal or  
amendment  
not a  
declaration  
of previous  
law

**17.** The repeal or amendment of an Act shall be deemed not to be or to involve any declaration as to the previous state of the law. R.S.O. 1960, c. 191, s. 17.

Amendment  
of Act not a  
declaration  
of different  
state of law

**18.** The amendment of an Act shall be deemed not to be or to involve a declaration that the law under the Act was or was considered by the Legislature to have been different from the law as it has become under the Act as so amended. R.S.O. 1960, c. 191, s. 18.

Re-enact-  
ment, etc.,  
not an  
adoption of  
judicial  
construction

**19.** The Legislature shall not, by re-enacting, revising, consolidating or amending an Act, be deemed to have adopted the construction that has by judicial decision or otherwise been placed upon the language used in the Act or upon similar language. R.S.O. 1960, c. 191, s. 19.

#### PROCLAMATIONS

Lieutenant  
Governor  
acting by  
proclama-  
tion

**20.** Where the Lieutenant Governor is authorized to do any act by proclamation, the proclamation is to be understood to be a proclamation issued under an order of the Lieutenant Governor in Council, but it is not necessary for the proclamation to mention that it is issued under such an order. R.S.O. 1960, c. 191, s. 20.

#### CROWN APPOINTMENTS

Tenure  
of office

**21.** Authority to the Lieutenant Governor to make an appointment to an office, by commission or otherwise, shall be deemed authority to appoint during pleasure. R.S.O. 1960, c. 191, s. 21.

REGULATIONS

**22.** The Lieutenant Governor in Council may make regulations for the due enforcement and carrying into effect of any Act of the Legislature and, where there is no provision in the Act, may prescribe forms and may fix fees to be charged by all officers and persons by whom anything is required to be done. R.S.O. 1960, c. 191, s. 22. Regulations

IMPRISONMENT

**23.** If in an Act a person is directed to be imprisoned or committed to prison, the imprisonment or committal shall, if no other place is mentioned or provided by law, be in or to the correctional institution of the locality in which the order for the imprisonment is made or, if there be no correctional institution there, then in or to the correctional institution that is nearest to such locality. R.S.O. 1960, c. 191, s. 23, *amended*. Imprisonment, place

**24.** Where power to impose imprisonment is conferred by an Act, it shall be deemed to authorize the imposing of imprisonment with hard labour. R.S.O. 1960, c. 191, s. 24. Hard labour

OFFENCE UNDER MORE THAN ONE PROVISION

**25.** Where an act or omission constitutes an offence under two or more Acts, the offender, unless the contrary intention appears, is liable to be prosecuted and punished under either or any of those Acts, but is not liable to be punished twice for the same act or omission. R.S.O. 1960, c. 191, s. 25. Offence under more than one provision

CORPORATIONS

**26.** In every Act, unless the contrary intention appears, words making any association or number of persons a corporation or body politic and corporate, Effect of words constituting a corporation

- (a) vest in the corporation power to sue and be sued, to contract and be contracted with by its corporate name, to have a common seal, to alter or change the seal at its pleasure, to have perpetual succession, to acquire and hold personal property or movables for the purpose for which the corporation is constituted, and to alienate the same at pleasure;
- (b) vest in a majority of the members of the corporation the power to bind the others by their acts; and
- (c) exempt individual members of the corporation from personal liability for its debts, obligations or acts if they do not contravene the provisions of the Act incorporating them. R.S.O. 1960, c. 191, s. 26.

## IMPLIED PROVISIONS

Implied provisions, as to jurisdiction

implied powers

acts to be done by more than two deviation from forms

powers and duties to be exercised and performed from time to time

to be exercised and performed by holder of office for time being

power to make by-laws, etc., to confer power to alter

computation of time where time limited expires on a holiday

computation of time where time limited expires on a holiday

number and gender

**27.** In every Act, unless the contrary intention appears,

- (a) where anything is directed to be done by or before a provincial judge or a justice of the peace or other public functionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where it is to be done;
- (b) where power is given to a person, officer or functionary to do or to enforce the doing of an act or thing, all such powers shall be understood to be also given as are necessary to enable the person, officer or functionary to do or enforce the doing of the act or thing;
- (c) where an act or thing is required to be done by more than two persons, a majority of them may do it;
- (d) where a form is prescribed, deviations therefrom not affecting the substance or calculated to mislead do not vitiate it;
- (e) where a power is conferred or a duty is imposed on the holder of an office as such, the power may be exercised and the duty shall be performed from time to time as occasion requires;
- (f) where a power is conferred or a duty is imposed on the holder of an office as such, the power may be exercised and the duty shall be performed by the holder of the office for the time being;
- (g) where power is conferred to make by-laws, regulations, rules or orders, it includes power to alter or revoke the same from time to time and make others;
- (h) where the time limited by an Act for a proceeding or for the doing of anything under its provisions expires or falls upon a holiday, the time so limited extends to and the thing may be done on the day next following that is not a holiday;
- (i) where the time limited for a proceeding or for the doing of any thing in an office of the Supreme Court, or a county or district court office, or a surrogate court office, or a small claims court office, or a registry office, or a land titles office, or a sheriff's office expires or falls upon a day that is prescribed as a holiday for such office, the time so limited extends to and the thing may be done on the day next following that is not a holiday;
- (j) words importing the singular number or the masculine gender only include more persons, parties or things of the same kind than one, and females as well as males and the converse;

- (k) a word interpreted in the singular number has a corresponding meaning when used in the plural; idem
- (l) words authorizing the appointment of a public officer or functionary, or a deputy, include the power of removing him, reappointing him, or appointing another in his stead or to act in his stead, from time to time in the discretion of the authority in whom the power of appointment is vested; words authorizing appointment include power to remove
- (m) words directing or empowering a public officer or functionary to do an act or thing, or otherwise applying to him by his name of office, include his successors in office and his lawful deputy; directions to public officer to apply to his successors and deputy
- (n) where reference is made by number to two or more sections, subsections, paragraphs, clauses or other provisions in an Act, the number first mentioned and the number last mentioned shall both be deemed to be included in the reference; reference to sections by numbers
- (o) words authorizing the appointment of a public officer or functionary or the appointment of a person to administer an Act include the power of appointing a deputy to perform and have all the powers and authority of such public officer or functionary or person to be exercised in such manner and upon such occasions as are specified in the instrument appointing him or such limited powers and authority as the instrument prescribes. R.S.O. 1960, c. 191, s. 27; 1970, c. 100, s. 1. words authorizing appointment include power to appoint deputy

PROCEDURE

**28.** Where an appeal to the Court of Appeal is permitted by an Act, the appeal shall be made in the time and manner prescribed by the rules of court. R.S.O. 1960, c. 191, s. 28. Appeals to Court of Appeal

**29.** Unless otherwise provided, where an application to a court or a judge is permitted by an Act, the application may be made by originating notice in the manner prescribed by the rules of court. R.S.O. 1960, c. 191, s. 29. Application to court or judge, procedure

WORDS AND TERMS

- 30.** In every Act, unless the context otherwise requires, Words and terms
- 1. “Act” includes enactment;
  - 2. “affidavit”, in the case of persons allowed by law to affirm or declare instead of swearing, includes affirmation and declaration;
  - 3. “Assembly” means the Legislative Assembly of Ontario;



4. "county" includes two or more counties united for purposes to which the Act relates;
5. "Court of Appeal" means the Court of Appeal for Ontario;
6. "Divisional Court" means the Divisional Court of the High Court of Justice for Ontario;
7. "Great Seal" means the Great Seal of Ontario;
8. "herein" used in a provision of an Act relates to the whole Act and not to that provision only;
9. "High Court" means the High Court of Justice for Ontario;
10. "Her Majesty", "His Majesty", "the Queen", "the King" or "the Crown" means the Sovereign of the United Kingdom, Canada and Her other Realms and Territories, and Head of the Commonwealth;
11. "holiday" includes Sunday, New Year's Day, Good Friday, Easter Monday, Christmas Day, the birthday or the day fixed by proclamation of the Governor General for the celebration of the birthday of the reigning Sovereign, Victoria Day, Dominion Day, Labour Day, Remembrance Day, and any day appointed by proclamation of the Governor General or the Lieutenant Governor as a public holiday or for a general fast or thanksgiving, and when any holiday, except Remembrance Day, falls on a Sunday, the day next following is in lieu thereof a holiday;
12. "justice of the peace" includes two or more justices of the peace or provincial judges assembled or acting together;
13. "legally qualified medical practitioner", "duly qualified medical practitioner", or any words importing legal recognition of a person as a medical practitioner or member of the medical profession, means a person registered under *The Medical Act*;
14. "Lieutenant Governor" means the Lieutenant Governor of Ontario, or the chief executive officer or administrator for the time being carrying on the government of Ontario by whatever title he is designated;
15. "Lieutenant Governor in Council" means the Lieutenant Governor of Ontario or the person administering the government of Ontario for the time being acting by and with the advice of the Executive Council of Ontario;
16. "may" shall be construed as permissive;

17. “mental defective” and “mentally defective person” means a person in whom there is a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, and who requires care, supervision and control for his own protection or welfare or for the protection of others;
18. “mental deficiency” means the condition of mind of a mental defective;
19. “mentally ill person” means a person, other than a mental defective, who is suffering from such a disorder of the mind that he requires care, supervision and control for his own protection or welfare, or for the protection of others;
20. “mental illness” means the condition of mind of a mentally ill person;
21. “mental incompetent” and “mentally incompetent person” means a person,
  - (a) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or
  - (b) who is suffering from such a disorder of the mind, that he requires care, supervision and control for his protection and the protection of his property;
22. “mental incompetency” means the condition of mind of a mentally incompetent person;
23. “month” means a calendar month;
24. “newspaper”, in a provision requiring publication in a newspaper, means a printed publication in sheet form, intended for general circulation, published regularly at intervals of not longer than a week, consisting in great part of news of current events of general interest and sold to the public and to regular subscribers upon a *bona fide* subscription list;
25. “now”, “next”, “heretofore” and “hereafter” shall be construed as having reference to the date of the coming into force of the Act;
26. “oath”, in the case of persons allowed by law to affirm or declare instead of swearing, includes affirmation and declaration;
27. “peace officer” includes a mayor, warden, reeve, sheriff, deputy sheriff, sheriff’s officer, and justice of the peace, and also the superintendent, governor, jailer, keeper,

guard or any other officer or permanent employee of a correctional institution, and also a police officer, police constable, bailiff, constable or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process;

28. “person” includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;
29. “proclamation” means a proclamation under the Great Seal;
30. “registrar” includes a deputy registrar;
31. “Rules Committee” means the Rules Committee established under *The Judicature Act*;
32. “rules of court”, when used in relation to a court, means rules made by the authority having power to make rules or orders regulating the practice and procedure of such court, or for the purpose of an Act directing or authorizing anything to be done by rules of court;
33. “security” means sufficient security, and “sureties” means sufficient sureties, and where these words are used, one person is sufficient therefor unless otherwise expressly required;
34. “shall” shall be construed as imperative;
35. “Supreme Court” means the Supreme Court of Ontario;
36. “swear”, in the case of persons for the time being allowed by law to affirm or declare instead of swearing, includes affirm and declare, and “sworn” has a corresponding meaning;
37. “writing”, “written”, or any term of like import, includes words printed, painted, engraved, lithographed, photographed, or represented or reproduced by any other mode in a visible form;
38. “year” means a calendar year. R.S.O. 1960, c. 191, s. 30; 1970, c. 100, s. 2, *amended*.

R.S.O. 1970,  
c. 228

#### SPECIAL INTERPRETATION CLAUSES

R.S.O. 1970,  
c. 228

**31.** The interpretation section of *The Judicature Act* extends to all Acts relating to legal matters. R.S.O. 1960, c. 191, s. 31.

R.S.O. 1970,  
c. 284

**32.** The interpretation section of *The Municipal Act* extends to all Acts relating to municipal matters. R.S.O. 1960, c. 191, s. 32.

## CHAPTER 226

## The Investment Contracts Act

## 1. In this Act,

- (a) “filed” means filed under this Act;
- (b) “investment contract” means a contract, agreement, certificate, instrument or writing containing an undertaking by an issuer to pay the holder thereof, or his assignee, or personal representative, or other person, a stated or determinable maturity value in cash or its equivalent on a fixed or determinable date and containing optional settlement, cash surrender or loan values prior to or after maturity, the consideration for which consists of payments made or to be made to the issuer in instalments or periodically, or of a single sum, according to a plan fixed by the contract, whether or not the holder is or may be entitled to share in the profits or earnings of, or to receive additional credits or sums from, the issuer, but does not include a contract within the meaning of *The Insurance Act*;
- (c) “issuer” means a corporation that offers for sale, sells, makes or enters into investment contracts of its own issue, but does not include an insurer within the meaning of *The Insurance Act* or a corporation within the meaning of *The Loan and Trust Corporations Act*;
- (d) “qualified assets” means,
- (i) cash,
  - (ii) first mortgages on improved real estate and first mortgages made under the *National Housing Act, 1954* (Canada), or any predecessor thereof,
  - (iii) bonds, debentures, stocks and other securities of the classes authorized under *The Insurance Act* for the investment of the funds of joint stock insurance companies incorporated under the law of Ontario or authorized under the *Canadian and British Insurance Companies Act* (Canada) for the investment of the funds of companies registered thereunder,
  - (iv) real property acquired by foreclosure or in satisfaction of a debt and held for a period of less than seven years, and
  - (v) such other investments or securities as are designated by the regulations;

Interpre-  
tationR.S.O. 1970,  
cc. 224, 2541953-54,  
c. 23 (Can.)R.S.C. 1952,  
c. 31



- (e) “prescribed” means prescribed by the regulations;
- (f) “registered” means registered under this Act;
- (g) “regulations” means the regulations made under this Act;
- (h) “salesman” means a person employed, appointed or authorized by an issuer to sell investment contracts;
- (i) “Superintendent” means the Superintendent of Insurance. R.S.O. 1960, c. 194, s. 1 *amended*.

Filing  
form of  
contract

**2.—(1)** No person shall issue for sale or offer for sale or sell an investment contract unless a copy of the form thereof has been filed with the Superintendent.

Forms not  
to be filed

(2) The Superintendent shall accept for filing a copy of the form of any investment contract tendered for filing unless the sale of investment contracts in such form would be inequitable or tend to work a fraud upon purchasers thereof or be against the public interest. R.S.O. 1960, c. 194, s. 2.

Who may  
issue  
contract

**3.—(1)** No person shall issue for sale an investment contract unless such person is registered as an issuer.

Who may  
sell  
contract

(2) No person shall offer for sale or sell an investment contract unless such person is,

- (a) registered as an issuer; or
- (b) recorded by the Superintendent as an executive officer of a registered issuer; or
- (c) registered as a salesman. R.S.O. 1960, c. 194, s. 3.

What cor-  
porations  
may be  
registered

**4.** No corporation shall be registered under this Act as an issuer unless,

- (a) there has been filed with the Superintendent,
  - (i) a certified copy of the Act, letters patent or other instrument of incorporation of the corporation,
  - (ii) a certified list of the names and addresses of the executive officers of the corporation,
  - (iii) a certified copy of the balance sheet of the corporation as at the close of its last completed fiscal year and its auditor’s report thereon, and
  - (iv) copies of all forms of investment contracts proposed to be issued by the corporation for sale in Ontario;
- (b) at least \$100,000 of its authorized capital stock has been subscribed and paid in, in cash, and the aggregate of its unimpaired paid-in capital and its surplus amounts to at least \$200,000;

- (c) arrangements satisfactory to the Superintendent have been made for the deposit with a trust company, chartered bank or other suitable depository or depositaries in Canada of qualified assets aggregating in amount, when valued as provided in section 20, not less at any time than the amount for which the corporation, under the terms of its investment contracts, is liable as of such time to pay in cash to the holders of all its investment contracts then outstanding, or aggregating such lesser amount as the Superintendent considers appropriate in the circumstances; except that, in the case of a corporation that maintains with a trust company, chartered bank or other suitable depository or depositaries outside Ontario but in Canada a deposit or deposits of qualified assets in such an aggregate amount or other deposit satisfactory to the Superintendent, no further deposit shall be required. R.S.O. 1960, c. 194, s. 4.

**5.—(1)** No person shall be registered as a salesman unless there has been filed with the Superintendent a written notice to the Superintendent from a registered issuer that such person has been employed, appointed or authorized to sell investment contracts issued by such issuer. Registration requirements

(2) Termination of the employment, appointment or authorization of a person employed, appointed or authorized to sell investment contracts issued by an issuer who has filed with the Superintendent a written notice pursuant to subsection 1 operates as a suspension of the registration of such person as a salesman. R.S.O. 1960, c. 194, s. 5. Suspension of registration

**6.** Every application for registration shall be made to the Superintendent in writing upon the prescribed form and shall be accompanied by the prescribed fee. R.S.O. 1960, c. 194, s. 6. Application for registration

**7.** Every applicant for registration shall state in the application an address for service in Ontario and all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. R.S.O. 1960, c. 194, s. 7. Address for service

**8.** Every registration and renewal of registration lapses on the 31st day of March, but any registered issuer or salesman desiring renewal of registration shall on or before the 21st day of March make application for renewal of registration upon the prescribed form with the prescribed fee. R.S.O. 1960, c. 194, s. 8. Renewal of registration

Granting of  
registration  
or renewal

**9.** The Superintendent shall grant registration or renewal of registration,

- (a) to an issuer applying therefor where the applicant is suitable for registration and the sale of investment contracts issued by such issuer would not be inequitable or tend to work a fraud upon purchasers thereof or be against the public interest; and
- (b) to a salesman applying therefor where the applicant is suitable for registration and the proposed registration is not objectionable. R.S.O. 1960, c. 194, s. 9.

Liability on  
contracts

**10.** Every registered issuer shall, at all times,

- (a) maintain reserves for the payment of its outstanding investment contracts that, together with all future payments to be received by the issuer on such investment contracts, or the portions of such future payments still to be applied to reserves, and with accumulations of interest at an assumed rate provided in the contracts, such rate not to exceed a rate approved by the Superintendent, will attain the face or maturity value specified in the contracts when due, or the amount payable in accordance with the terms of the contracts; or
- (b) maintain reserves of such lesser amount as the Superintendent considers appropriate in the circumstances,

but such reserves shall at no time be less than the amount for which such registered issuer, under the terms of its investment contracts, is liable to pay in cash to the holders of all its investment contracts then outstanding. R.S.O. 1960, c. 194, s. 10.

Investment  
of funds

R.S.O. 1970,  
c. 224  
R.S.C. 1952,  
c. 31

**11.** Subject to section 12, a registered issuer may invest its funds only in investments in which a joint stock insurance company may invest its funds under Part XVII of *The Insurance Act*, or in investments in which a company registered under the *Canadian and British Insurance Companies Act* (Canada) may invest its funds. R.S.O. 1960, c. 194, s. 11, *amended*.

Power to  
acquire and  
hold real  
property  
R.S.O. 1970,  
c. 280

**12.**—(1) A registered issuer may acquire and hold for its own use and benefit such real property as is necessary for the transaction of its business, and, upon complying with and subject to *The Mortmain and Charitable Uses Act*, may acquire or hold or construct a building larger than is required for the transaction of its business and may lease any part of the building not so required.

Idem

(2) A registered issuer may acquire and hold such real property as is *bona fide* mortgaged to it by way of security, and such real property as is acquired by it by foreclosure or in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of such

real property, but such issuer shall sell any such last-mentioned real property within seven years after it has been so acquired. R.S.O. 1960, c. 194, s. 12.

**13.**—(1) The Superintendent may suspend or cancel any registration upon any grounds that would justify refusal to grant registration or renewal of registration. Suspension or cancellation of registration

(2) The Superintendent may suspend or cancel the registration of an issuer where it appears to him from the statements and reports filed with him or from an inspection or valuation that the issuer will be unable to provide for the payment of its investment contracts at maturity. R.S.O. 1960, c. 194, s. 13. Idem

**14.** Notwithstanding any order of the Superintendent, a further application may be made upon new or other material or where it is clear that material circumstances have changed. R.S.O. 1960, c. 194, s. 14. Further application for registration

**15.**—(1) An applicant for registration or renewal of registration or any person who considers himself aggrieved by a decision of the Superintendent may appeal therefrom to the Court of Appeal. Appeal

(2) The appeal shall be set down for argument at the first sitting of the Court of Appeal that commences after the expiration of thirty days from the decision complained of. When to be set down

(3) The practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action. Procedure

(4) The Superintendent shall certify to the Registrar of the Court of Appeal the decision appealed from, his reasons therefor, and the documents, inspection reports and evidence, if any, and such other information as he had before him in making the decision. R.S.O. 1960, c. 194, s. 15. Certificate

**16.**—(1) Not later than thirty days after the expiration of each quarterly period ending March 31st, June 30th, September 30th and December 31st, every registered issuer shall file with the Superintendent a statement, certified to by its auditor or by such officer of the issuer as may be approved by the Superintendent, showing, Filing statement

- (a) the amount on the last day of the quarterly period required by section 10 to be maintained as reserves by the issuer on all outstanding investment contracts;
- (b) all qualified assets on deposit on the last day of the quarterly period last ended with the trust company, chartered bank or other depositary or depositaries in Canada approved by the Superintendent and the value, when valued as provided in section 20, of such qualified assets as at such date; and



(c) such information as the Superintendent may require. R.S.O. 1960, c. 194, s. 16 (1); 1970, c. 105, s. 1.

Filing  
balance  
sheet

(2) Not later than ninety days after the expiration of its fiscal year, every registered issuer shall file with the Superintendent a balance sheet and profit and loss statement for such completed fiscal year, certified by two of its directors and reported on by its auditor, and such other financial statements as the Superintendent may require.

Market  
value of  
securities

(3) The market value of all securities at the date of the statement shall be noted on the balance sheet.

Auditor

(4) The auditor of an issuer registered under this Act shall be a person or firm acceptable to the Superintendent. R.S.O. 1960, c. 194, s. 16 (2-4).

Inspection

**17.**—(1) The Superintendent may at any time make or cause to be made an inspection of the books, documents and records of any issuer and of any salesman.

Access on  
inspection

(2) Upon any such inspection, the Superintendent or his duly authorized representative is entitled to free access to all books of account, cash, securities, documents, bank accounts, vouchers, correspondence and records of every description of the issuer or salesman, and no person shall withhold or destroy, conceal or refuse to furnish any information or thing reasonably required by the Superintendent for the purposes of the inspection. R.S.O. 1960, c. 194, s. 17.

Advertising  
and forms

**18.** The Superintendent may at any time require any issuer or salesman to submit for review any circulars, pamphlets, brochures, specimen contracts, application forms or other documents used by such issuer or salesman in connection with the sale of investment contracts. R.S.O. 1960, c. 194, s. 18.

Notice of  
changes by  
issuer

**19.**—(1) Every registered issuer shall notify the Superintendent in writing of,

- (a) any change in its address for service;
- (b) any change in its executive officers; and
- (c) the commencement and termination of the employment, appointment or authorization of each of its salesmen.

by salesman

(2) Every salesman registered under this Act shall notify the Superintendent in writing of,

- (a) any change in his address for service; and
- (b) every commencement and termination of his employment, appointment or authorization by a registered issuer. R.S.O. 1960, c. 194, s. 19.

**20.**—(1) In any statement or balance sheet to be filed with the Superintendent under this Act, an issuer may value its assets as, Valuation  
of assets

- (a) cash—in the amount thereof in lawful money of Canada;
- (b) first mortgages—in the amount of the balance of the principal sum secured thereby together with all unpaid interest accrued thereon;
- (c) bonds, debentures and other evidences of indebtedness having a fixed term and rate of interest that are not in default as to principal or interest and that in the opinion of the Superintendent are amply secured,
  - (i) if purchased at par, at the par value,
  - (ii) if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made,

but the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase;

- (d) bonds, debentures and other evidences of indebtedness having a fixed term and rate of interest that are in default as to principal or interest or that in the opinion of the Superintendent are not amply secured—at the market value at the date of the statement;
- (e) stocks—at the book value not in excess of the cost to the issuer and in the aggregate not in excess of the aggregate market value at the date of the statement; and
- (f) other securities—at the book value but not in excess of the aggregate market value at the date of the statement,

(2) Where any assets consist of securities whose market values are unduly depressed and in respect of which companies registered under the *Canadian and British Insurance Companies Act* (Canada) have been authorized to use values in excess of such market values, such assets may, with the approval of the Superintendent, be valued as authorized under that Act, but, if it appears to the Superintendent that the amount secured by mortgage on any parcel of real estate together with interest due and accrued thereon is greater than the value of such parcel or that such parcel is not sufficient for the loan and interest, he may procure an appraisal thereof, and, if from the appraised value it appears that such parcel of real estate is not adequate security for the loan and interest, such loan or mortgage shall be valued at an amount not to exceed the appraised value. R.S.O. 1960, c. 194, s. 20. Idem  
R.S.C. 1952,  
c. 31

Extension  
of time  
prescribed

**21.** The Superintendent may extend the time for the filing of any statement, balance sheet or other document, or the making of any application for renewal of registration under this Act. R.S.O. 1960, c. 194, s. 21.

Exempted  
sales

**22.** Nothing in this Act prevents the sale of an investment contract by or on behalf of the holder thereof where such sale is not made in the course of continued and successive transactions of like character or by a person whose usual business is the issuance or sale of investment contracts. R.S.O. 1960, c. 194, s. 22.

Offences

**23.**—(1) Every person who contravenes subsection 1 of section 2, or subsection 1 of section 3, or subsection 2 of section 3 in respect of clause *a* or *b* thereof, is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Idem

(2) Every person who contravenes subsection 2 of section 3 in respect of clause *c* is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Idem

(3) Every person who contravenes any other provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. R.S.O. 1960, c. 194, s. 23.

Recovery of  
penalties

**24.** No proceedings to recover the penalties provided in section 23 shall be instituted except,

- (a) with the written consent of the Minister of Justice and Attorney General; and
- (b) within two years after the offence is committed. R.S.O. 1960, c. 194, s. 24, *amended*.

Regulations

**25.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees payable upon applications for registration and renewal of registration;
- (b) prescribing forms and providing for their use;
- (c) designating investments or securities as qualified assets within the meaning of this Act;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 194, s. 25.

R.S.O. 1970,  
c. 426 not  
to apply

**26.** Notwithstanding *The Securities Act*,

- (a) an investment contract shall be deemed not to be a security; and
- (b) an issuer shall be deemed not to be an investment company,

within the meaning of that Act. R.S.O. 1960, c. 194, s. 26.

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## CHAPTER 227

## The Judges' Orders Enforcement Act

**1.**—(1) Where jurisdiction is given to a judge as *persona designata* and where the statute under which he acts does not provide otherwise, his orders shall be entered in the same way as orders made by him in matters pending in the court of which he is a judge and may be enforced in the same way as judgments of the court.

Enforcing  
orders of  
judge as  
*persona  
designata*

(2) The affidavits used upon an application to a judge as *persona designata* shall be filed with the clerk of the court as upon ordinary applications in matters pending in the court.

Filing of  
affidavits

(3) The same fee shall be paid for such filings and upon an order made as in ordinary proceedings in the court. R.S.O. 1960, c. 196, s. 1.

Fees

**2.** Where an application is made to a judge as *persona designata* and the statute under which he acts does not provide otherwise, he has the same jurisdiction as to costs and otherwise as in matters in court under his ordinary jurisdiction. R.S.O. 1960, c. 196, s. 2.

Jurisdic-  
tion as to  
costs,  
etc.

**3.**—(1) An appeal lies from an order made by a judge as *persona designata* to the Court of Appeal,

Appeal

- (a) if the right of appeal is given by the statute under which the judge acted; or
- (b) if no such right of appeal is given, then by leave of the judge who made the order or by leave of the Court of Appeal. R.S.O. 1960, c. 196, s. 3.

(2) On the day on which section 17 of *The Judicature Act* is proclaimed in force, subsection 1 is amended by striking out "Court of Appeal" in the second line and in the second and third lines of clause *b* thereof and by inserting in lieu thereof in each instance "Divisional Court". 1970, c. 101, ss. 1, 2.

Amendment to  
subs. 1  
R.S.O. 1970,  
c. 228





## CHAPTER 228

## The Judicature Act

## 1. In this Act,

Interpre-  
tation

- (a) “action” means a civil proceeding commenced by writ or in such other manner as is prescribed by the rules;
- (b) “cause” includes an action, suit or other original proceeding between a plaintiff and a defendant;
- (c) “county” includes a district;
- (d) “county court” includes a district court;
- (e) “county town” includes a district town;
- (f) “Court of Appeal” means the Court of Appeal for Ontario;
- (g) “defendant” includes a person served with a writ of summons or process, or served with notice of, or entitled to attend a proceeding;
- (h) “Divisional Court” means the Divisional Court of the High Court;
- (i) “finance committee” means the finance committee appointed by the Lieutenant Governor in Council under this Act;
- (j) “High Court” means the High Court of Justice for Ontario;
- (k) “judge” includes a chief justice and an *ex officio* judge;
- (l) “judgment” includes an order;
- (m) “Master of the Supreme Court” includes an assistant master;
- (n) “matter” includes every proceeding in the court not in a cause;
- (o) “party” includes a person served with notice of or attending a proceeding, although not named on the record;
- (p) “petitioner” includes a person making an application to the court, either by petition, motion or summons, otherwise than as against a defendant;
- (q) “plaintiff” includes a person asking any relief otherwise than by way of counterclaim as a defendant against any other person by any form of proceeding;

- (r) “pleading” includes a petition or summons, the statement in writing of the claim or demand of a plaintiff, of the defence of a defendant thereto, and of the reply of the plaintiff to a counterclaim of a defendant;
- (s) “proper officer”, where the expression is used with respect to a duty to be discharged under this Act or the rules and the duty has been discharged by a particular officer, means that officer and, where the expression is used in respect of a new duty under this Act or the rules, means the officer to whom the duty is assigned by this Act or by the rules, or, if it is not assigned to any officer, means such officer as is from time to time directed to discharge the duty, if it relates to the Court of Appeal, by the Chief Justice of Ontario or, if it relates to the High Court, by the Chief Justice of the High Court;
- (t) “rules” means the rules of court;
- (u) “Rules Committee” means the Rules Committee established under this Act;
- (v) “Supreme Court” means the Supreme Court of Ontario. R.S.O. 1960, c. 197, s. 1; 1970, c. 97, s. 1.

#### CONSTITUTION AND JUDGES OF SUPREME COURT

Jurisdiction  
of Supreme  
Court

**2.** The Supreme Court shall be continued as a superior court of record, having civil and criminal jurisdiction, and it has all the jurisdiction, power and authority that on the 31st day of December, 1912, was vested in or might be exercised by the Court of Appeal or by the High Court of Justice or by a divisional court of that court, and such jurisdiction, power and authority shall be exercised in the name of the Supreme Court. R.S.O. 1960, c. 197, s. 2.

Branches

**3.** The Supreme Court shall continue to consist of two branches, the Court of Appeal for Ontario and the High Court of Justice for Ontario. R.S.O. 1960, c. 197, s. 3.

Court of  
Appeal

**4.—(1)** The Court of Appeal shall consist of a chief justice who shall be the president thereof and who shall be called the Chief Justice of Ontario, and nine other judges to be called justices of appeal.

Absence  
of Chief  
Justice

(2) Where the Chief Justice of Ontario is absent from the Judicial District of York or where he is for any reason unable or unwilling to act, his powers shall be exercised and his duties performed by the senior justice of appeal. R.S.O. 1960, c. 197, s. 4, *amended*.

High Court  
of Justice

**5.—(1)** The High Court shall consist of a chief justice who shall be the president thereof and who shall be called the Chief Justice of the High Court, and thirty-one other judges. R.S.O. 1960, c. 197, s. 5 (1); 1970, c. 92, s. 1.

(2) Where the Chief Justice of the High Court is absent from Ontario or where he is for any reason unable to act, his powers shall be exercised and his duties performed by the senior judge of the High Court able to act in his stead. R.S.O. 1960, c. 197, s. 5 (2). Absence of  
C.J.H.C.

**6.**—(1) There shall be a division of the High Court to be known as the Divisional Court of the High Court of Justice for Ontario consisting of the Chief Justice of the High Court who shall be president of the court and such other judges of the Divisional Court as may be designated by him from time to time. Divisional  
Court of the  
High Court

(2) Every judge of the High Court is also a judge of the Divisional Court. 1970, c. 97, s. 2. Jurisdiction  
of judges

**7.** Section 6 does not come into force until a day to be named by the Lieutenant Governor by his proclamation. 1970, c. 97, s. 13 (2), *amended*. Commence-  
ment  
of s. 6

**8.**—(1) The Chief Justice of Ontario has rank and precedence over all the other judges. Rank and  
precedence

(2) The Chief Justice of the High Court has rank and precedence next after the Chief Justice of Ontario. Idem

(3) The justices of appeal and the other judges have rank and precedence after the Chief Justice of the High Court and among themselves according to seniority of appointment. R.S.O. 1960, c. 197, s. 6. Idem

**9.** A judge appointed to the Court of Appeal or to the High Court is a judge of the Supreme Court and is *ex officio* a judge of the branch of which he is not a member, and, except where it is otherwise expressly provided, all the judges of the Supreme Court have in all respects equal jurisdiction, power and authority. R.S.O. 1960, c. 197, s. 7. Judges of  
the Supreme  
Court

**10.**—(1) A judge, before entering on the duties of his office, shall take and subscribe the following oath: Oath of  
office

I do solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trust reposed in me as . . . . .  
So help me God.

(2) The oath shall be administered to a chief justice before the Lieutenant Governor in Council, to a justice of appeal by the Chief Justice of Ontario, and to a judge of the High Court by the Chief Justice of the High Court, unless the Lieutenant Governor in Council in any case otherwise directs, and in that event before such officer or functionary and in such manner as the Lieutenant Governor in Council may direct. R.S.O. 1960, c. 197, s. 8. How oath  
to be ad-  
ministered



Judgment  
after  
leaving  
office

**11.**—(1) Where a judge resigns his office or is appointed to any other court or ceases to hold office by reason of his having attained the age of seventy-five years, he may at any time within eight weeks after such event give judgment in any cause, action or matter previously tried by or heard before him, as if he had continued in office. 1965, c. 51, s. 2.

When to  
take part in  
judgment

(2) Where he has heard a cause, action or matter jointly with other judges in the Court of Appeal, he may at any time within the period mentioned in subsection 1 take part in the giving of judgment by that court as if he were still a member of it.

Judgment  
of remain-  
ing judges  
or majority

(3) Where he does not take part in the giving of judgment or where a judge by whom a cause, action or matter has been heard in the Court of Appeal is absent from illness or any other cause or dies, the remaining judges of the court, or, if there is a difference of opinion, a majority of them, may give judgment as if the judge who has so resigned or been appointed or is dead were still a member of the court and taking part in the judgment, and, in the case of absence, as if the absent judge were present and taking part in the judgment.

Reading  
judgment  
of absent  
judge

(4) Where a judge who has heard a cause, action or matter in the Court of Appeal is not present when the judgment of the court is delivered, his written judgment may be read by one of the other judges and has the same effect as if he were present. R.S.O. 1960, c. 197, s. 9 (2-4).

#### SEAL

Seal

**12.** There shall be a seal for the Supreme Court which shall be approved by the Lieutenant Governor in Council. R.S.O. 1960, c. 197, s. 10.

#### JURISDICTION AND LAW

Jurisdiction  
of Court  
of Appeal

**13.**—(1) The Court of Appeal shall exercise that part of the jurisdiction vested in the Supreme Court that on the 31st day of December, 1912, was vested in the Court of Appeal and in the Divisional Courts of the High Court, and such jurisdiction shall be exercised by the Court of Appeal in the name of the Supreme Court.

Jurisdiction  
of High  
Court

(2) Except as provided by subsection 1, all the jurisdiction vested in the Supreme Court shall be exercised by the High Court in the name of the Supreme Court. R.S.O. 1960, c. 197, s. 11.

Jurisdiction  
of Chief  
Justice and  
justices of  
appeal

**14.**—(1) All jurisdiction, power and authority that on the 31st day of December, 1912, was vested in or exercisable by the Chief Justice of Ontario or by a justice of appeal, is vested in and may be exercised by a judge of the Court of Appeal, and shall be exercised in the name of the Supreme Court.

Jurisdiction  
of judges of  
the High  
Court

(2) All jurisdiction, power and authority that on the 31st day of December, 1912, was vested in or exercisable by a judge of the High Court is vested in and may be exercised by a judge of the

High Court, and shall be exercised in the name of the Supreme Court. R.S.O. 1960, c. 197, s. 12.

**15.** Upon the request of the judge or judges for or with whom he is requested to sit or act, or upon the request of the Chief Justice of Ontario or of the Chief Justice of the High Court, any judge of the Supreme Court or any retired judge of that court may sit and act as a judge of either of the branches of the Supreme Court, or perform any other official or ministerial act for or on behalf of any judge absent from illness or any other cause, or in the place of any judge whose office has become vacant, or as an additional judge of the Court of Appeal, and while so sitting and acting, any such judge or retired judge has all the power and authority of a judge of the Supreme Court. R.S.O. 1960, c. 197, s. 13.

Provisions  
for absence  
or vacancy  
in office of  
a judge

**16.**—(1) Subject to the rules, the courts and the judges thereof, or any commissioner appointed under section 55, may sit and act, at any time and at any place, for the transaction of any part of the business of the courts, or of the judges or commissioner or for the discharge of any duty that by any statute, or otherwise, is required to be discharged.

Sittings of  
courts

(2) Subject to subsection 1, the Court of Appeal shall sit at Toronto. R.S.O. 1960, c. 197, s. 14.

Where  
Court of  
Appeal to sit

**17.**—(1) The Divisional Court has jurisdiction to hear, determine and dispose of,

Jurisdiction  
of Divisional  
Court

- (a) all appeals to the Supreme Court under any Act other than this Act and *The County Courts Act*;
- (b) applications by way of prohibition, mandamus and certiorari;
- (c) all appeals from orders or decisions of judges of the High Court in regard to prohibition, mandamus or certiorari;
- (d) all appeals from judgments, orders or decisions of a judge of the High Court or a judge of the Divisional Court in regard to matters of practice or procedure that do not affect the ultimate rights of any party;
- (e) all appeals by way of stated case to the Supreme Court under any Act other than *The Summary Convictions Act*;
- (f) all appeals from final orders of the Master of the Supreme Court.

R.S.O. 1970,  
c. 94

R.S.O. 1970,  
c. 450

(2) Where, by or under any Act, other than this Act and *The County Courts Act*, provision is made for an appeal to the High Court or the Court of Appeal, or to a judge thereof, or to a judge of the Supreme Court, including such an appeal by way of stated case, such provision shall be deemed to provide that the appeal shall be to the Supreme Court and clause *a* of subsection 1 applies. 1970, c. 97, s. 3.

Existing  
appeals to  
Supreme  
Court

Commencement  
of subss. 1, 2

(3) Subsections 1 and 2 do not come into force until a day to be named by the Lieutenant Governor by his proclamation. 1970, c. 97, s. 13 (2), *amended*.

#### ADMINISTRATION OF JUSTICE

Rules of  
law and  
equity

**18.** In every civil cause or matter, law and equity shall be administered according to the following rules:

Equitable  
relief

1. Where a plaintiff claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against a deed, instrument or contract, or against a right, title or claim asserted by a defendant in such cause or matter, or to any relief founded upon a legal right that before the commencement of *The Ontario Judicature Act, 1881* could only have been given by a court of equity, the Supreme Court and every judge shall give to the plaintiff such and the same relief as ought to have been given by the Court of Chancery in a suit or proceeding for the same or the like purposes properly instituted before the commencement of that Act.

44 V., c. 5

Declaratory  
judgments  
and orders

2. No action or proceeding is open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the court may make binding declarations of right, whether or not any consequential relief is or could be claimed.

Equitable  
defences

3. Where a defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by a plaintiff in such cause or matter, or alleges any ground of equitable defence to a claim of the plaintiff in such cause or matter, the court and every judge shall give to every equitable estate, right or ground of relief so claimed and to every ground of equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff, as the Court of Chancery ought to have given if the same or the like matters had been relied on by way of defence in a suit or proceeding instituted in that court for the same or the like purpose before the commencement of *The Ontario Judicature Act, 1881*.

Relief that  
may be  
granted to  
defendants

4. The court and every judge also have power to grant to any defendant in respect of any equitable estate or right or other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff as such defendant has properly claimed by his pleading, and as the court or any judge might have granted in a suit instituted for that purpose by the same defendant against the same plaintiff, and

also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of such claim pursuant to the rules or to any order of the court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose, and every person served with any such notice shall henceforth be considered a party to such cause or matter, with the same rights in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant.

5. The court and every judge shall recognize and take notice of all equitable estates, titles and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the Court of Chancery would have recognized and taken notice of the same in any suit or proceeding duly instituted therein before the commencement of *The Ontario Judicature Act, 1881*. Courts to take notice of equitable rights and duties 44 V., c. 5
6. No cause or proceeding shall be restrained by prohibition or injunction, but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, prior to *The Ontario Judicature Act, 1881*, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto, but nothing in this Act disables the court from directing a stay of proceedings in any cause or matter pending before it, and any person, whether or not a party to any such cause or matter, who would have been entitled, before the commencement of *The Ontario Judicature Act, 1881*, to apply to a court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, or order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, may apply to the court by motion in a summary way, for a stay of proceedings in such cause or matter either generally, or so far as may be necessary for the purposes of justice, and the court shall thereupon make such order as is considered just. Restraining proceedings
7. Subject to the foregoing provisions for giving effect to equitable rights and other matters of equity and the other express provisions of this Act, the court and every judge shall recognize and give effect to all legal claims and demands, and all estates, rights, duties, obligations Giving effect to legal claims



44 V., c. 5

Multiplicity  
of proceed-  
ings to be  
avoidedSanction  
of court to  
sale under  
mortgage  
securing  
debentures

and liabilities existing by the common law or created by any statute, in the same manner as they would have been recognized and given effect to before the commencement of *The Ontario Judicature Act, 1881* by any of the courts then existing and whose jurisdiction is now vested in the Supreme Court.

8. The court in the exercise of the jurisdiction vested in it by this Act in every cause or matter pending before it has power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as it deems just, all such remedies as any of the parties appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them in such cause or matter, so that, as far as possible, all matters so in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.
9. (i) In case bonds or debentures are secured by a mortgage or charge by virtue of a trust deed or other instrument and whether or not provision is contained in the trust deed or other instrument creating such mortgage or charge giving to the holders of such bonds or debentures or a majority, or a specified majority of them, power to sanction the sale, transfer or exchange of the mortgaged or charged premises for a consideration other than cash, and in case any action has been brought or is brought for the purpose of enforcing or realizing upon any such mortgage or charge, or for the execution of the trusts in any such trust deed or other instrument with or without other relief, the court may order a meeting or meetings of the holders of such bonds or debentures to be summoned and held in such manner as the court directs, and if the holders of such bonds or debentures sanction or approve the sale, transfer or exchange of the property so mortgaged or charged for a consideration wholly or in part other than cash, the court may in such action order and approve such sale on such terms in all respects as the court thinks fair and reasonable having regard to the interests of all parties interested in the premises and property so mortgaged or charged, and in such order or by a subsequent order may make provision in such manner, on such terms in all respects as the court considers proper, for the transfer to and vesting in the purchaser or his or its assigns of the whole or any part of the premises and property so mortgaged or charged and so sold, and for the payment of the proper costs, charges and expenses and remuneration of any trustee or trustees under such trust deed or

other instrument and of any receiver or receiver and manager appointed by the court, and of any committee or other persons representing holders of such bonds or debentures, and for the distribution or other disposition of the proceeds of such sale, and for the protection of any or all persons whose interests are affected by such order, and for all such incidental, consequential and supplemental matters as the court considers just.

(ii) The approval of the holders of any such bonds or debentures may be given by resolution passed at a meeting by the votes of the holders of a majority in principal amount of such bonds or debentures, represented and voting in person or by proxy, and holding not less than 50 per cent in principal amount, or such lesser amount as the court under all the circumstances approves, of the issued and outstanding bonds or debentures in question. R.S.O. 1960, c. 197, s. 15.

**19.**—(1) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the court in all cases in which it appears to the court to be just or convenient that the order should be made, and any such order may be made either unconditionally or upon such terms and conditions as the court considers just, and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, the injunction may be granted, whether the person against whom it is sought is or is not in possession under any claim of title or otherwise, or, if out of possession, does or does not claim a right to do the act sought to be restrained under a colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable. R.S.O. 1960, c. 197, s. 16 (1).

Injunctions  
and  
receivers

(2) An action may be brought in the Supreme Court by or on behalf of the Minister of Justice and Attorney General for an injunction or mandamus restraining the publication of any newspaper, publication, pamphlet, magazine, periodical or other printed matter whatsoever that publishes continuously or repeatedly writings or articles that are obscene, immoral, or otherwise injurious to public morals.

Mandamus  
or injunction  
restraining  
obscene  
publications

(3) An action may be brought in the Supreme Court by or on behalf of the Minister of Justice and Attorney General for an injunction or mandamus restraining the publication of any newspaper, publication, pamphlet, magazine, periodical or other printed matter whatsoever containing any writing, article or picture tending to insult, degrade, revile or expose to hatred, contempt, ridicule or mockery Her Majesty or any member of the Royal Family. R.S.O. 1960, c. 197, s. 16 (2, 3), *amended*.

Actions  
restraining  
publication  
of articles  
or pictures  
insulting  
Her Majesty

Recog-  
nizance

(4) The court may, in addition to making such order, require the defendant to enter into a recognizance in such sum and during such term as the court requires to carry out the terms of the order and to refrain from the publication of any writing, article or picture of a like nature. R.S.O. 1960, c. 197, s. 16 (4).

Service  
of order

(5) Upon the making of such order, the Minister of Justice and Attorney General may cause a copy thereof to be served personally upon any person and, if the person after the service publishes any such writing, article or picture, he is liable for contempt to the same extent as if he had been a party to the proceedings. R.S.O. 1960, c. 197, s. 16 (5), *amended*.

Against  
whom  
action may  
be brought

(6) An action under subsection 2 or 3 may be brought against anyone printing, publishing or distributing any publication of the kind mentioned in subsection 2 or 3.

Inter-  
locutory  
injunctions

(7) In an action brought under subsection 2, 3 or 6, the judge may on such material as he sees fit grant an interlocutory injunction or mandamus. R.S.O. 1960, c. 197, s. 16 (6, 7).

Interpre-  
tation

**20.**—(1) In this section, “labour dispute” means a dispute or difference concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

No *ex parte*  
applications  
for  
injunctions

(2) Subject to subsection 7, no injunction to restrain a person from any act in connection with a labour dispute shall be granted *ex parte*.

Steps before  
application  
for  
injunction

(3) In every application for an injunction to restrain a person from any act in connection with a labour dispute, the court must be satisfied that reasonable efforts to obtain police assistance, protection and action to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with lawful entry upon or exit from the premises in question, or breach of the peace have been unsuccessful.

Evidence

(4) Subject to subsection 7, evidence in support of an application for an injunction to restrain a person from any act in connection with a labour dispute shall be provided by way of affidavits confined to statements of facts within the knowledge of the deponent, but any party may by notice to the party filing such affidavit, together with the proper conduct money, require the attendance of the deponent to be cross-examined at the hearing of the motion.

Notice of  
application  
for interim  
injunction

(5) An interim injunction to restrain a person from any act in connection with a labour dispute may be granted for a period of not longer than four days and, subject to subsection 7, only after

two days notice of the application therefor has been given to the person or persons named in the application.

(6) At least two days notice of an application for an interim Idem injunction to restrain a person from any act in connection with a labour dispute shall be given to the persons affected thereby and not named in the application,

- (a) where such persons are members of a labour organization, by personal service upon an officer or agent of the labour organization; and
- (b) where such persons are not members of a labour organization, by posting the notice in a conspicuous place at the location of the activity sought to be restrained where it can be read by any persons affected,

and service and posting under this subsection shall be deemed to be sufficient notice to all such persons.

(7) Where notice as required by subsections 5 and 6 is not Idem given, the court may grant an interim injunction where,

- (a) the case is otherwise a proper one for the granting of an interim injunction; and
- (b) notice as required by subsections 5 and 6 could not be given because the delay necessary to do so would result in irreparable damage or injury, a breach of the peace or an interruption in an essential public service; and
- (c) reasonable notification, by telephone or otherwise, has been given to the persons to be affected or, where any of such persons are members of a labour organization, to an officer of that labour organization or to the person authorized under section 77 of *The Labour Relations Act*, to accept service of process under that Act on behalf of that labour organization or trade union, or where it is shown that such notice could not have been given; and
- (d) proof of all material facts for the purposes of clauses *a*, *b* and *c* is established by *viva voce* evidence.

R.S.O. 1970,  
c. 232

(8) The misrepresentation of any fact or the withholding of any qualifying relevant matter, directly or indirectly provided by or on behalf of the applicant for an injunction under this section, constitutes a contempt of court. Misrepresentation as contempt of court

(9) Any judgment or order in an application under this section may be appealed to the Court of Appeal. Appeal 1970, c. 91, s. 1.

**21.** Where the court has jurisdiction to entertain an application for an injunction against a breach of a covenant, contract or agreement, or against the commission or continuance of a wrongful act, or for the specific performance of a covenant, contract or agreement, the court may award damages to the party injured Damages, etc.



either in addition to or in substitution for the injunction or specific performance, and the damages may be ascertained in such manner as the court directs, or the court may grant such other relief as is considered just. R.S.O. 1960, c. 197, s. 18.

Relief  
against  
penalties,  
etc.

**22.** The court has power to relieve against all penalties and forfeitures, and, in granting such relief, to impose such terms as to costs, expenses, damages, compensation and all other matters, as are considered just. R.S.O. 1960, c. 197, s. 19.

Jurisdiction  
as to  
validity of  
statutes

**23.**—(1) In any action in which the Attorney General for Canada or the Minister of Justice and Attorney General for Ontario is a party plaintiff and the other attorney general is a party defendant, the court has jurisdiction to make a declaration as to the validity in whole or in part of any Act of the Legislature or any Act of the Parliament of Canada that by its terms purports to have force in Ontario, though no further relief be prayed or sought. R.S.O. 1960, c. 197, s. 20 (1), *amended*.

Appeal

(2) The judgment in any such action is subject to appeal as in ordinary cases. R.S.O. 1960, c. 197, s. 20 (2).

Stay of  
proceedings  
if action for  
same cause  
is pending  
out of  
Ontario

**24.** Where an action is brought in the Supreme Court for a cause of action for which a suit or action has been brought and is pending between the same parties or their representatives in any place or country out of Ontario, the court may make an order staying proceedings in the Supreme Court until satisfactory proof is offered to the court that the suit or action so brought in such other place or country out of Ontario is determined or discontinued. R.S.O. 1960, c. 197, s. 21.

Rules of  
equity  
prevail

**25.** In questions relating to the custody and education of infants and generally in all matters in which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity prevail. R.S.O. 1960, c. 197, s. 22.

Sections  
18 to 25  
apply to  
all courts

**26.** Sections 18 to 25 are in force and have effect in all courts so far as the matters to which they relate are cognizable by such courts. R.S.O. 1960, c. 197, s. 23.

#### APPEALS

Certain  
orders not  
subject to  
appeal

**27.** No order of the High Court or of a judge thereof made with the consent of the parties is subject to appeal, and no order of the High Court or of a judge thereof as to costs only that by law are left to the discretion of the court is subject to appeal on the ground that the discretion was wrongly exercised or that it was exercised under a misapprehension as to the facts or the law or on

any other ground, except by leave of the court or judge making the order. R.S.O. 1960, c. 197, s. 24.

**28.** Subject to subsection 2 of section 43, there is no appeal to the Court of Appeal from any interlocutory order whether made in court or chambers, save by leave as provided in the rules. R.S.O. 1960, c. 197, s. 25; 1968, c. 59, s. 1.

Appeals  
from inter-  
locutory  
orders

**29.**—(1) Except where it is otherwise provided by statute and subject to the rules regulating the terms and conditions on which appeals may be brought, an appeal lies to the Court of Appeal from,

Appeals to  
Court of  
Appeal

- (a) any judgment, order or decision of a judge of the High Court in court, whether at the trial or otherwise;
- (b) any judgment, order or decision of a judge of the High Court in chambers that finally disposes of any cause or matter;
- (c) any judgment, order or decision of a judge in chambers in regard to a matter of practice or procedure that affects the ultimate rights of any party, and, subject to the rules, from any other judgment, order or decision of a judge in chambers in regard to a matter of practice or procedure. R.S.O. 1960, c. 197, s. 26 (1).

(2) On the day section 17 is proclaimed in force, subsection 1 of this section is repealed and the following substituted therefor:

Amendment  
to subs. 1

(1) Except where it is otherwise provided by statute and subject to the rules regulating the terms and conditions on which appeals may be brought, an appeal lies to the Court of Appeal from,

Appeals to  
Court of  
Appeal

- (a) any judgment, order or decision of a judge of the High Court in court, whether at the trial or otherwise;
- (b) any judgment, order or decision of a judge of the High Court in chambers that finally disposes of any cause or matter;
- (c) any judgment, order or decision of a judge in chambers in regard to a matter of practice or procedure that affects the ultimate rights of any party,

except that where such judgment, order or decision is that of the Divisional Court, the appeal shall be on questions of law only and is subject to the leave of the Court of Appeal. 1970, c. 97, ss. 4, 13 (2).

(3) The Court of Appeal also has jurisdiction as provided by any Act of the Parliament of Canada or of the Legislature.

Statutory  
appeals

New trials

(4) The Court of Appeal also has jurisdiction to hear and determine applications for new trials and applications to set aside verdicts and findings of juries in actions and matters tried or heard in the High Court.

Generality  
of s. 13 (1)  
not affected

(5) Nothing in this section limits the generality of subsection 1 of section 13. R.S.O. 1960, c. 197, s. 26 (2-4).

Court may  
pronounce  
proper  
judgment

**30.**—(1) The court upon an appeal may give any judgment that ought to have been pronounced and may make such further or other order as is considered just.

Power to  
draw infer-  
ences of  
fact and to  
give  
judgment

(2) The court has power to draw inferences of fact not inconsistent with any finding of the jury that is not set aside, and if satisfied that there are before it all the materials necessary for finally determining the matters in controversy, or any of them, or for awarding any relief sought, it may give judgment accordingly, but if it is of opinion that there are not sufficient materials before it to enable it to give judgment, it may direct the appeal to stand over for further consideration and may direct that such issues or questions of fact be tried and determined and such accounts be taken and such inquiries be made as are considered necessary to enable it on such further consideration finally to dispose of the matters in controversy.

Where  
appeal is  
against  
part only

(3) The powers conferred by subsections 1 and 2 may be exercised notwithstanding that the appeal is as to part only of the judgment, order or decision, and may be exercised in favour of all or any of the parties, although they may not have appealed. R.S.O. 1960, c. 197, s. 27.

New trial  
not to be  
granted  
in certain  
cases

**31.**—(1) A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence, or because the verdict of the jury was not taken upon a question that the judge at the trial was not asked to leave to the jury, or by reason of any omission or irregularity in the course of the trial, unless some substantial wrong or miscarriage has been thereby occasioned.

Judgment  
as to one  
part and  
new trial  
as to others

(2) If it appears that a substantial wrong or miscarriage was so occasioned but it affected part only of the matter in controversy or some or one only of the parties, the court may give final judgment as to any part or any party not so affected, and direct a new trial as to the other part only, or only as to the other parties. R.S.O. 1960, c. 197, s. 28.

New trial  
may be  
ordered on  
any  
question

**32.** A new trial may be ordered upon any question without interfering with the decision upon any other question. R.S.O. 1960, c. 197, s. 29.

**33.** Where the jury disagrees or makes no finding on which judgment can be entered, the court may, on the application of the defendant, dismiss the action on the ground that there is no evidence to warrant a judgment for the plaintiff, or that for any other reason he is not entitled to judgment. R.S.O. 1960, c. 197, s. 30.

Disagree-  
ment of  
jury

**34.** In any cause or matter pending before the Court of Appeal, any direction incidental to it not involving the decision of the appeal may be given by a judge of that court, and a judge of that court may, during vacation, make any interim order that he thinks fit to prevent prejudice to the claim of any of the parties pending an appeal, but every such order is subject to appeal to the Court of Appeal. R.S.O. 1960, c. 197, s. 31.

Power of  
judge of  
Court of  
Appeal

**35.**—(1) If a judge considers a decision previously given to be wrong and of sufficient importance to be considered in a higher court, he may refer the case before him to the Court of Appeal.

Decisions  
may be  
referred to  
Court of  
Appeal

(2) Where a case is so referred, it shall be set down for hearing, and notice of hearing shall be given in like manner as in the case of an appeal to the Court of Appeal. R.S.O. 1960, c. 197, s. 32.

Procedure

#### CONSTITUTIONAL QUESTIONS

**36.**—(1) Where in an action or other proceeding the constitutional validity of any Act or enactment of the Parliament of Canada or of the Legislature is brought in question, it shall not be adjudged to be invalid until after notice has been given to the Attorney General for Canada and to the Minister of Justice and Attorney General for Ontario. R.S.O. 1960, c. 197, s. 33 (1), *amended*.

Notice to be  
given  
before Act  
declared  
invalid

(2) The notice shall state what Act or part of an Act is in question and the day on which the question is to be argued, and shall give such other particulars as are necessary to show the constitutional point proposed to be argued.

Form of  
notice

(3) Subject to the rules, the notice shall be served six days before the day named for the argument. R.S.O. 1960, c. 197, s. 33 (2, 3).

Six days  
notice

(4) The Attorney General for Canada and the Minister of Justice and Attorney General for Ontario are entitled as of right to be heard either in person or by counsel notwithstanding that the Crown is not a party to the action or proceeding.

Right of  
Attorneys  
General to  
be heard



Right of  
Attorneys  
General  
to appeal

(5) Where in an action or proceeding to which this section applies the Attorney General for Canada or the Minister of Justice and Attorney General for Ontario appears in person or by counsel, each shall be deemed to be a party to the action or proceeding for the purpose of an appeal from any adjudication as to the constitutional validity of any Act or enactment in question in the action or proceeding and each has the same rights with respect to an appeal as any other party to the action or proceeding. R.S.O. 1960, c. 197, s. 33 (4, 5), *amended*.

#### WHERE NO ACTION OR EXTRAORDINARY REMEDY LIES

Proceedings  
not to lie

**37.** No action and no proceeding by way of injunction, mandamus, prohibition or other extraordinary remedy lies or shall be instituted against the Treasurer of Ontario, his representative or appointee, whether in any such person's public or private capacity, for anything done or omitted or proposed or purported to be done or omitted in connection with the administration or carrying out of *The Succession Duty Act*. R.S.O. 1960, c. 197, s. 34.

R.S.O. 1970,  
c. 449

#### INTEREST

Interest  
may be  
allowed  
as hereto-  
fore

**38.** Interest is payable in all cases in which it is now payable by law or in which it has been usual for a jury to allow it. R.S.O. 1960, c. 197, s. 35.

When allow-  
able on  
debts cer-  
tain and  
overdue

**39.**—(1) On the trial of an issue or on an assessment of damages upon a debt or sum certain, payable by virtue of a written instrument at a time certain, interest may be allowed from the time when the debt or sum became payable.

When allow-  
able after  
demand of  
payment

(2) If such debt or sum is payable otherwise than by virtue of a written instrument at a time certain, interest may be allowed from the time when a demand of payment was made in writing, informing the debtor that interest would be claimed from the date of the demand.

Interest by  
way of  
damages in  
certain  
actions

(3) In actions for the conversion of goods or for trespass *de bonis asportatis*, the jury may give interest in the nature of damages over and above the value of the goods at the time of the conversion or seizure, and in actions on policies of insurance may give interest over and above the money recoverable thereon. R.S.O. 1960, c. 197, s. 36.

Interest on  
judgments

**40.** Unless otherwise ordered by the court, a verdict or judgment bears interest from the time of the rendering of the verdict, or of giving the judgment, as the case may be, notwithstanding that the entry of judgment has been suspended by a proceeding in the action including an appeal. R.S.O. 1960, c. 197, s. 37.

CERTIFICATE OF LIS PENDENS

**41.**—(1) The institution of an action or the taking of a proceeding in which any title to or interest in land is brought in question shall not be deemed notice of the action or proceeding to any person not a party to it until, where the land is registered under *The Land Titles Act*, a caution is registered under that Act, or in other cases, until a certificate, signed by the proper officer of the court, has been registered in the registry office of the registry division in which the land is situate.

Action, etc.,  
not notice  
unless  
caution or  
certificate  
registered  
  
R.S.O. 1970,  
c. 234

(2) The certificate may be in the following form: Form

I certify that in an action or proceeding in the Supreme Court of Ontario between *A.B.*, of ..... and *C.D.*, of ..... some title or interest is called in question in the following land: (*describing it*).  
Dated at (*stating place and date*).

R.S.O. 1960, c. 197, s. 38 (1, 2).

(3) Subsection 1 does not apply to an action or proceeding for foreclosure or sale upon a registered mortgage or to enforce a lien under *The Mechanics' Lien Act*. R.S.O. 1960, c. 197, s. 38 (3); 1966, c. 73, s. 1.

Exception  
  
R.S.O. 1970,  
c. 267

**42.**—(1) Where a caution or certificate has been registered and the plaintiff or other party at whose instance it was issued does not in good faith prosecute the action or proceeding, a judge of the High Court may at any time make an order vacating the caution or certificate.

Order  
vacating  
caution or  
certificate

(2) Where a caution or certificate has been registered and the plaintiff's claim is not solely to recover land or an estate or interest in land but to recover money or money's worth, chargeable on or payable out of land, or some estate or interest in it, or for the payment of which he claims that the land or such estate or interest ought to be subjected, or where the plaintiff claims land or some estate or interest in land, and, in the alternative, damages or compensation in money or money's worth, a judge of the High Court may at any time make an order vacating the caution or certificate upon such terms as to giving security or otherwise as is considered just.

Where land,  
etc., not  
claimed

(3) A judge of the High Court may at any time vacate the registration upon any other ground that is considered just.

Upon other  
grounds

(4) On an application under this section, the judge may order any of the parties to it to pay the costs of any of the other parties to it, or may make any other order with respect to costs that under all the circumstances is considered just.

Costs

Appeal and  
registration

(5) The order vacating a caution or certificate is subject to appeal according to the practice in like cases, and may be registered in the same manner as a judgment affecting land on or after the fourteenth day from the date of the order, unless the order is meanwhile reversed or its registration is postponed or forbidden by an order of a judge of the High Court.

Effect

(6) Where a caution or certificate is vacated, any person may deal in respect to the land as fully as if the caution or certificate had not been registered, and it is not incumbent on any purchaser or mortgagee to inquire as to the allegations in the action or proceeding, and his rights are not affected by his being aware of such allegations. R.S.O. 1960, c. 197, s. 39.

#### COURT OF APPEAL

Hearing of  
appeals

**43.**—(1) Except where otherwise provided, every appeal to the Court of Appeal shall be heard before not fewer than three justices of appeal sitting together, and always before an uneven number of justices. R.S.O. 1960, c. 197, s. 40 (1).

Exception  
1968,  
c. 24 (Can.)

(2) An appeal to the Court of Appeal from an interlocutory order for corollary relief under the *Divorce Act* (Canada) may be heard without leave before one justice of appeal sitting alone. 1968, c. 59, s. 2; 1970, c. 97, s. 5.

Divisions

(3) The Court of Appeal may sit in one division or in two or more divisions as the Chief Justice of Ontario directs from time to time.

C.J.O. to  
determine

(4) The justices to sit from time to time and the appeals to be heard shall be determined by the Chief Justice of Ontario. R.S.O. 1960, c. 197, s. 40 (2, 3).

C.J.O. may  
assign cer-  
tain work

**44.**—(1) The Chief Justice of Ontario may assign any justice of appeal not sitting in the Court of Appeal to perform, in Toronto, the work of a judge of the High Court.

*Ad hoc*  
judges of  
Court of  
Appeal

(2) Whenever occasion requires, a judge who is not a member of the Court of Appeal may sit in the place of a judge of the Court of Appeal.

When judges  
of one  
court may  
sit in  
another

(3) Subsection 2 applies where a vacancy occurs in the Court of Appeal by death or resignation of a judge or otherwise, until his successor is appointed.

Right of  
judge who  
sits in place  
of another  
not to be  
questioned

(4) A judge who sits in the place of a judge of the Court of Appeal shall be conclusively deemed to have been entitled and qualified to so sit within the meaning of subsections 2 and 3.

Judge may  
give judg-  
ment after  
ceasing to  
be judge of  
the Court  
of Appeal

(5) A judge who has sat in the Court of Appeal on the hearing of any appeal, matter or proceeding therein may give judgment notwithstanding that he has ceased to be a judge of that court.

(6) A judge shall not sit on the hearing of an appeal from a judgment or order made by himself. R.S.O. 1960, c. 197, s. 41.

Judge not to hear appeal from his own judgment

**45.** Except as provided in section 44, neither the Chief Justice of Ontario nor any of the justices of appeal shall, without his consent, be assigned to or required to perform any duty except as such appertains to him as a member of the Court of Appeal. R.S.O. 1960, c. 197, s. 42.

C.J.O. and justices of appeal not to be assigned certain work without consent

**46.** The Chief Justice of Ontario, when present, shall preside and, in his absence, the senior justice present shall preside. R.S.O. 1960, c. 197, s. 43.

Presiding judge

#### HIGH COURT

**47.**—(1) Every action and proceeding in the High Court and all business arising out of it, except as herein otherwise expressly provided, shall be heard, determined and disposed of before a judge, and where he sits in court, he constitutes the court.

Business to be disposed of by one judge

(2) Subject to section 35, a judge of the High Court shall decide all questions coming properly before him, and shall not reserve any case, or any point in a case, for the consideration of the Court of Appeal.

Judge not to reserve questions

(3) All such arrangements as may be necessary or proper for the holding of any of the courts, or the transaction of business in the High Court, or the arrangement from time to time of judges to hold such courts, or to transact such business, shall be made by the judges of that branch, with power in the Chief Justice of the High Court to make such readjustment or reassignment as is necessary from time to time. R.S.O. 1960, c. 197, s. 44.

Arrangements for holding of courts

#### DIVISIONAL COURT

**48.**—(1) Except where otherwise provided, every proceeding in the Divisional Court shall be heard, determined and disposed of before three judges thereof sitting together of whom one shall be the Chief Justice of the High Court or a judge of the High Court designated by him, and the sitting shall be presided over by the Chief Justice of the High Court or his designee.

Hearings of Divisional Court

(2) The Divisional Court may sit in two or more sections as the Chief Justice of the High Court may direct from time to time.

Sections

(3) In accordance with the rules, sittings of the Divisional Court shall be held in Toronto continuously, except during vacations and holidays, and shall be held in London, Ottawa, Sudbury, Sault Ste. Marie and Thunder Bay at such times as the Chief Justice of the High Court may fix for the expeditious dispatch of the matters set down for hearing at those places.

Time and place of sittings



Judge  
not to sit  
on own  
appeal

(4) A judge of the Divisional Court shall not sit as a member of the Divisional Court considering an appeal from his own decision. 1970, c. 97, s. 6.

Commencement  
of section

(5) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. 1970, c. 97, s. 13 (2), *amended*.

#### WEEKLY COURTS

Ottawa and  
London

**49.**—(1) Sittings of the High Court shall be held in accordance with the rules of court at Ottawa and London on at least one day in each alternate week, except during vacation.

Elsewhere

(2) Nothing in subsection 1 affects any other sittings of the High Court. R.S.O. 1960, c. 197, s. 45.

#### TRIAL SITTINGS

Sittings  
for trials

**50.**—(1) There shall be as many sittings of the High Court in and for every county as are required for the trial of civil causes, matters and issues and for the trial of criminal matters and proceedings.

Separate  
sittings  
may be held

(2) Separate sittings may be held for the trial of civil causes, matters and issues that are to be tried without a jury, and separate sittings for those that are to be tried with a jury, and separate sittings may also be held for the trial of criminal matters and proceedings.

Sittings  
may be  
held con-  
currently

(3) Sittings may be held concurrently or separately as may be directed by the judges appointing the days therefor or by the judges presiding at the sittings.

Jury cases  
to be tried  
first

(4) Subject to the rules, where a sittings is held for the trial of civil causes, matters and issues that are to be tried with and for those that are to be tried without a jury, separate lists shall be made and the jury cases shall be first disposed of unless the presiding judge otherwise directs. R.S.O. 1960, c. 197, s. 46 (1-4).

Sittings  
to be held  
in court  
house

(5) The sittings shall be held in the court house of the county or at such other place in the county as the presiding judge may direct. R.S.O. 1960, c. 197, s. 46 (5); 1961-62, c. 65, s. 2.

Two sittings  
yearly in  
each county

(6) Subject to the rules, at least two sittings shall be held in each year in and for every county, and additional sittings shall be provided when necessary for the due dispatch of business. R.S.O. 1960, c. 197, s. 46 (6).

Who may  
preside

**51.**—(1) Every such sittings shall be presided over by one of the judges of the Supreme Court, or, on the request in writing of a judge of the Supreme Court, by a retired judge of that court, or by a judge of a county court, or by one of Her Majesty's counsel learned in the law appointed for Ontario.

(2) Such judge or counsel while holding the sittings possesses and enjoys and may exercise all the powers and authorities of a judge of the High Court, and in civil proceedings may reserve the giving of his decision on questions raised at the trial and afterwards give the same, and such decisions have the like force and effect as the decision of a judge of the High Court. R.S.O. 1960, c. 197, s. 47. Powers of presiding judge

**52.** Where the judge whose duty it is to hold a sittings does not arrive in time or is not able to open court on the day appointed for that purpose, the sheriff may, after 6 o'clock in the afternoon of that day, by proclamation, adjourn the sittings to an hour on the following day to be named by him, and so from day to day until the judge arrives or until other directions from the judge or from the Chief Justice of the High Court are received. R.S.O. 1960, c. 197, s. 48. Non-arrival of judge

**53.**—(1) No sittings shall begin on any day before 9 o'clock in the forenoon, nor, except for special reasons, shall it extend beyond 7 o'clock in the afternoon, and there shall be an intermission of at least half an hour at or near noon. Hours of sittings

(2) Failure to observe any of the provisions of subsection 1 does not render the trial or other proceedings void. R.S.O. 1960, c. 197, s. 49. Non-observance of hours

**54.** Non-jury actions to be tried in any county, except the Judicial District of York, may be entered for trial at any sittings of the High Court in such county. R.S.O. 1960, c. 197, s. 50, *amended*. Entering non-jury actions for trial

**55.**—(1) A commission of assize or any other commission, either general or special, may be issued by the Lieutenant Governor in Council assigning to the person therein named the duty of trying and determining within any place or district named for that purpose by the commission, any cause or matter, or any question or issue of fact or of law or partly of fact and partly of law, in any cause or matter depending in the Supreme Court, or for the exercise of any civil or criminal jurisdiction capable of being exercised by the court. Commissions of assize and other commissions

(2) A commissioner, when exercising any jurisdiction so assigned to him, shall be deemed to constitute the court. R.S.O. 1960, c. 197, s. 51. Commissioner to be a court

#### ACTIONS ON QUEBEC JUDGMENTS

**56.** Where an action is brought on a judgment obtained in the Province of Quebec in an action in which the service on the defendant or party sued was personal, no defence that might have been set up to the original action may be made to the action on the judgment. R.S.O. 1960, c. 197, s. 52. Action on Quebec judgment where service personal

Action on  
Quebec  
judgment  
where  
service not  
personal

**57.** Where an action is brought on a judgment obtained in the Province of Quebec in an action in which the service was not personal and in which no defence was made, any defence that might have been set up to the original action may be made to the action on the judgment. R.S.O. 1960, c. 197, s. 53.

Costs

**58.**—(1) Where an action is brought on a judgment obtained in the Province of Quebec, the costs incurred in obtaining the judgment in that Province are not recoverable without the order of a judge directing their allowance.

Conditions  
under which  
order may  
be made

(2) Such order shall not be made, unless, in the opinion of the judge, the costs were properly incurred, nor if it would have been a saving of expense and costs to have first instituted proceedings in Ontario on the original claim. R.S.O. 1960, c. 197, s. 54.

#### MANNER AND PLACE OF TRIAL

Certain  
actions to  
be tried  
by a jury

**59.** Actions of libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution and false imprisonment shall be tried by a jury, unless the parties in person or by their solicitors or counsel waive such trial. R.S.O. 1960, c. 197, s. 55.

Certain  
actions  
to be tried  
without a  
jury

**60.** Actions against a municipal corporation or a board of trustees of a police village for damages in respect of injuries sustained by reason of the default of the corporation in keeping in repair a highway or bridge shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county that constitutes the municipality or in which the municipality or police village is situate. R.S.O. 1960, c. 197, s. 56.

Issues of  
fact to  
be tried  
without  
jury

**61.**—(1) Subject to the rules and except where otherwise expressly provided by this Act, all issues of fact shall be tried and all damages shall be assessed by the judge without the intervention of a jury.

Judge may  
direct trial  
by jury

(2) The judge may nevertheless direct that the issues or any of them be tried and the damages be assessed by a jury. R.S.O. 1960, c. 197, s. 57.

Jury notice

**62.**—(1) Subject to the rules, if a party desires that the issues of fact be tried or the damages be assessed by a jury, he may, at any stage of the proceedings, but not later than the fourth day after the close of the pleadings, or, if notice of trial or assessment is served before that time, within two days after service of such notice or within such other time as is allowed by a judge, file and serve on the opposite party a notice in writing requiring that the issues be tried or the damages be assessed by a jury, and if such notice is given, subject to subsection 3, they shall be tried or assessed accordingly.

(2) A copy of the notice shall be attached to the certified copy of the pleadings prepared for use at the trial.

Copy of notice

(3) Notwithstanding the giving of the notice, the issues of fact may be tried or the damages may be assessed without the intervention of a jury if the judge presiding at the sittings so directs or if it is so ordered by a judge.

Jury may be dispensed with

(4) Subsection 1 does not apply to causes, matters or issues over the subject of which the Court of Chancery had exclusive jurisdiction before the commencement of *The Administration of Justice Act of 1873*. R.S.O. 1960, c. 197, s. 58.

Subsection 1 not to apply to certain causes, etc.

36 V., c. 8

**63.**—(1) Subject to subsection 2, no proviso, condition, stipulation, agreement or statement that provides for the place of trial of an action, matter or other proceeding is of any force or effect.

Effect of agreement, etc., as to place of trial

(2) Subsection 1 does not apply unless and until the defendant moves to change the place of trial. R.S.O. 1960, c. 197, s. 59.

Motion by defendant to change venue

JURY TRIALS

**64.**—(1) It is sufficient if five of the jurors agree, and a verdict rendered or question answered by five jurors has the same effect as a verdict or answer given by six jurors.

Agreement of five jurors to be sufficient

(2) Where more questions than one are submitted, it is not necessary that the same five jurors agree to every answer. R.S.O. 1960, c. 197, s. 61.

Not necessary for same five jurors to agree to all answers

**65.** If at the trial of an action or issue or assessment of damages a juror dies or becomes incapacitated from any cause from continuing to sit or act on the jury, or if it is discovered that a juror has an interest in the result of the proceeding, or is a relative within the degree of first cousin of any of the parties, the judge may discharge him and direct that the trial or assessment proceed on such terms as he considers just with five jurors, and in that case the verdict or answer to a question given by the jury shall be unanimous. R.S.O. 1960, c. 197, s. 62.

Death or illness of juror or discovery of interest during trial

**66.**—(1) In the absence of a direction to the contrary of the judge, a jury may give a general or special verdict, but shall give a special verdict if he so directs and shall not give a general verdict if directed by him not to do so.

General or special verdicts

(2) This section does not apply to actions of libel. R.S.O. 1960, c. 197, s. 63.

Exception

**67.**—(1) Upon a trial by jury, except in an action of libel, the judge, instead of directing the jury to give either a general or a special verdict, may direct the jury to answer any questions of fact stated to them by him, and the jury shall answer such questions, and shall not give any verdict.

Answers to questions



Negligent  
acts  
specified  
by jury  
R.S.O. 1970,  
c. 202

(2) In an action, tried by a judge and jury, to which subsection 1 of section 133 of *The Highway Traffic Act* applies, the judge may direct the jury to specify negligent acts or omissions that caused the damages or injuries in respect of which the action is brought.

Judgment

(3) Judgment may be directed to be entered on the answers to such questions. R.S.O. 1960, c. 197, s. 64.

Malicious  
prosecution  
actions

**68.** In actions of malicious prosecution, the judge shall decide all questions both of law and fact necessary for determining whether or not there was reasonable and probable cause for the prosecution. R.S.O. 1960, c. 197, s. 65.

#### QUASHING CONVICTIONS, ETC.

Motion  
substituted  
for cer-  
tiorari, etc.

**69.**—(1) Where it is desired to move to quash a conviction, order, warrant or inquisition, the proceeding shall be by motion in the first instance instead of by certiorari, rule or order nisi.

Service of  
notice of  
motion

(2) Notice of the motion shall be served at least six days before the return day thereof upon the provincial judge making the conviction or order, or issuing the warrant, or the coroner making the inquisition, and also upon the prosecutor or informant, if any, and upon the clerk of the peace if the proceedings have been returned to his office, and the notice shall specify the objections intended to be raised. R.S.O. 1960, c. 197, s. 66 (1, 2), *amended*.

Endorsement  
on notice  
of motion

(3) Upon the notice of motion shall be endorsed a copy of subsection 4 and a notice in the following form, addressed to the provincial judge, coroner, or clerk of the peace, as the case may be:

You are hereby required forthwith after service hereof to return to the office of the Registrar of the Supreme Court at Toronto, the conviction (*or as the case may be*) herein referred to, together with the information and evidence, if any, and all things touching the matter, as fully and entirely as they remain in your custody, together with this notice.

Dated

To A. B.

Provincial Judge (*or as the case may be*).

C. D.

Solicitor for the Applicant.

R.S.O. 1960, c. 197, s. 66 (3); 1970, c. 97, s. 7 (1), *amended*.

Return by  
provincial  
judge,  
etc.

(4) Upon receiving the notice so endorsed, the provincial judge, coroner or clerk of the peace shall forthwith return to the office of the Registrar of the Supreme Court at Toronto, the conviction, order, warrant or inquisition, and the information and evidence, if any, and all things touching the matter, and the notice served upon him with a certificate endorsed upon it in the following form:

Pursuant to the within notice I herewith return to this Honourable Court the following papers and documents:

- 1. The conviction (*or as the case may be*).
- 2. The information and the warrant issued thereon.
- 3. The evidence taken at the hearing.
- 4. (*Any other papers or documents touching the matter*).

And I hereby certify to this Honourable Court that I have above truly set forth all the papers and documents in my custody or power relating to the matter set forth in this notice of motion.

R.S.O. 1960, c. 197, s. 66 (4); 1970, c. 97, s. 7 (2), *amended*.

(5) The certificate has the same effect as a return to a writ of certiorari or to an order under the rules. Effect of certificate

(6) The notice is returnable before a judge of the High Court sitting in chambers. Where notice returnable

(7) The motion shall not be entertained unless, Limitations

- (a) the return day thereof is within six months after the conviction, order, warrant or inquisition; and
- (b) the applicant is shown to have entered into a recognizance with one or more sufficient sureties in the sum of \$100 before a provincial judge of the county in which the conviction, order or inquisition was made or the warrant was issued, or before a judge of the county court of that county or before a judge of the High Court, conditioned that the applicant will prosecute the application at his own costs and charges without any wilful or affected delay and that he will pay to the person in whose favour the conviction, order or other proceeding is affirmed his full costs and charges to be taxed according to the course of the court in case the conviction, order or other proceeding is affirmed, or has paid into court the like sum as security that he will do so.

(8) The recognizance, with an affidavit of its due execution, shall be filed in the office of the Registrar of the Supreme Court. Recognizance to be filed

(9) The judge has all the powers of the court in the like matters and may order the production of such papers and documents as he considers necessary. Powers of judge

(10) No appeal from the order of the judge lies unless leave is granted by a judge of the High Court. R.S.O. 1960, c. 197, s. 66 (5-10), *amended*. No appeal without leave

**70.** Upon a motion to quash a conviction, it is the duty of the judge to examine and consider the proceedings returned to the court and, if such proceedings show that the person accused has been convicted of any offence known to the law and that there is any evidence to sustain the conviction, the conviction shall be affirmed, but otherwise the conviction shall be quashed, provided that if the evidence returned shows that the accused is guilty of an Review of proceedings on motion to quash conviction

offence against the law, or that the conviction, though irregular, ought to be amended or drawn so as to duly describe the offence, the conviction shall be affirmed or amended as justice requires. R.S.O. 1960, c. 197, s. 67.

#### REFERENCES TO REFEREES

Reference  
for inquiry  
and report

**71.**—(1) Subject to the rules and to a right to have particular cases tried by a jury, a judge of the High Court may refer a question arising in an action for inquiry and report either to an official referee or to a special referee agreed upon by the parties.

Where  
Crown  
interested

(2) Subsection 1 does not, unless with the consent of the Crown, authorize the reference to an official referee of an action to which the Crown is a party or of a question or issue therein. R.S.O. 1960, c. 197, s. 68.

Power to  
refer in  
certain  
cases

**72.** In an action,

- (a) if all the parties interested who are not under disability consent, and, where there are parties under disability, the judge is of opinion that the reference should be made and the other parties interested consent; or
- (b) where a prolonged examination of documents or a scientific or local investigation is required that cannot, in the opinion of a court or a judge, conveniently be made before a jury or conducted by the court directly; or
- (c) where the question in dispute consists wholly or partly of matters of account,

a judge of the High Court may at any time refer the whole action or any question or issue of fact arising therein or question of account either to an official referee or to a special referee agreed upon by the parties. R.S.O. 1960, c. 197, s. 69.

Reference of  
boundary  
line question  
to surveyor

**73.**—(1) If it appears in any action that a material question to be determined is the true definition of a boundary line, the question may be referred to a special referee who is an Ontario land surveyor.

Proceedings  
R.S.O. 1970,  
c. 453

(2) The referee shall, by a proper survey as directed by *The Surveys Act*, and upon hearing the evidence adduced by the parties and their counsel, if any, define upon the ground by such posts and monuments as he considers sufficient the true boundary or division line so in dispute.

Report

(3) The referee shall make a report to the court and shall therein set forth his mode of procedure and what he has done in the premises, and also such further or other facts and circumstances as are necessary to enable the court finally to determine the question and how the costs should be borne. R.S.O. 1960, c. 197, s. 70.

**74.**—(1) In the case of a reference to a special referee, he shall be deemed to be an officer of the Supreme Court.

Special referee, status

(2) The remuneration to be paid to a special referee may be determined by a judge of the High Court.

remuneration

(3) The remuneration, fees, charges and disbursements payable to an official referee, and, in the absence of any special direction, to a special referee, shall be the same as are payable to a local master.

scale of remuneration

(4) Where the judge at the trial instead of trying an action refers the whole action under section 72 to an official referee who is a local registrar or deputy registrar, a local master or other officer of the court, paid wholly or partly by salary, no fees shall be charged by the referee. R.S.O. 1960, c. 197, s. 71.

Where no fees payable

**75.** The referee shall make his findings and embody his conclusions in the form of a report, and his report shall be subject to all the incidents of a report of a master on a reference as regards filing, confirmation, appealing therefrom, motions thereupon and otherwise, including appeals to the Court of Appeal, except that, where a whole action has been referred under section 72, the appeal from the report lies direct to the Court of Appeal. R.S.O. 1960, c. 197, s. 72; 1965, c. 51, s. 3.

Referee's report

**76.** The evidence of witnesses examined upon the reference and the exhibits shall forthwith after the making of the report be transmitted by the referee to the proper officer of the court. R.S.O. 1960, c. 197, s. 73.

Transmission of evidence and exhibits

SURETY BONDS

**77.**—(1) In this section, “surety company” means a corporation empowered to give bonds by way of indemnity.

Interpretation

(2) The Lieutenant Governor in Council may direct that the bond of a surety company named in the order in council may be given as security in all cases where security is ordered to be given by any court or by any judge or officer of any court and in all cases where security for the cost of an appeal or for the prosecution of the appeal is required by any law, rule or practice.

Bonds of company may be taken as security

(3) Every order in council made under subsection 2 shall be published forthwith in *The Ontario Gazette* and shall be laid before the Assembly within fifteen days after its making if the Assembly is then in session and, if it is not in session, within fifteen days after the opening of the next session.

Order in council to be published and tabled

(4) The bond of a surety company named in the order in council is sufficient without any other surety joining in the bond, and an affidavit of justification is not necessary.

Other surety or affidavit of justification not required



Disallow-  
ance of  
bond on  
motion

(5) Notwithstanding anything in this section, any judge or any officer having jurisdiction in the matter may in his discretion disallow any such bond on a motion to disallow it, and upon any evidence that is considered sufficient. R.S.O. 1960, c. 197, s. 74.

#### PHYSICAL EXAMINATION OF PARTIES

Where  
examination  
may be  
ordered

**78.**—(1) In any action or proceeding for the recovery of damages or other compensation for or in respect of bodily injury sustained by any person, the court which, or the judge, or the person who by consent of parties, or otherwise, has power to fix the amount of the damages or compensation, may order that the person in respect of whose injury damages or compensation are sought submit himself to a physical examination by a legally qualified medical practitioner or by more than one legally qualified medical practitioners, but no medical practitioner who is a witness on either side shall be appointed to make the examination. R.S.O. 1960, c. 75, s. 1 (1).

Examiners  
may ask  
questions

(2) Any legally qualified medical practitioner may in connection with an examination under subsection 1 ask the person being examined any questions that may be relevant to the purpose of the examination.

Admissibili-  
ty of  
answers

(3) Any answer given or statement made by a person being examined during an examination under subsection 1 that is relevant to the purpose of the examination is admissible in evidence.

Presence of  
others

(4) No person, other than the person being examined and the one or more medical practitioners making the examination, shall be present during the examination except with the consent of the parties or as may be ordered by the court, judge or other person who ordered the examination. 1966, c. 73, s. 2.

Further  
examina-  
tions

(5) The court, judge or other person may order a second examination or further examinations upon such terms as to costs as are considered proper.

Medical  
practitioner  
to be  
selected by  
judge and  
may be a  
witness

(6) Every such medical practitioner shall be selected by the court, judge or person making the order, and may afterwards be a witness on the trial unless the court, judge or person before whom the action or proceeding is tried otherwise directs.

Interpre-  
tation  
R.S.O. 1970,  
c. 108

(7) In this section, "legally qualified medical practitioner" includes a person licensed to practise dentistry under *The Dentistry Act*. R.S.O. 1960, c. 197, s. 75 (2-4).

#### TENDER OF AMENDS IN TORT ACTIONS

Tender of  
amends in  
tort cases

**79.** A person who has committed a wrong giving a cause of action for the recovery of damages to the person wronged may at any time before action tender amends, and the tender has the same effect as a tender in an action for the recovery of a debt. R.S.O. 1960, c. 197, s. 76.

VESTING ORDERS

**80.** Where the court has authority to direct the sale of any real or personal property or to order the execution of a deed, conveyance, transfer or assignment of any real or personal property, the court may by order vest the property in such person and in such manner and for such estates as would be done by any such deed, conveyance, assignment or transfer if executed; and the order has the same effect as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise, for the same estate or interest, to the person in whom the property is so ordered to be vested or, in the case of a chose in action, as if it had been actually assigned to the last-mentioned person. R.S.O. 1960, c. 197, s. 77.

Vesting orders, effect

JUDGMENTS FOR ALIMONY

**81.**—(1) An order or judgment for alimony may be registered in any registry office in Ontario, and the registration, so long as the order or judgment remains in force, binds the estate and interest that the defendant has in any land in the registry division in which the registration is made, and operates thereon in the same manner and with the same effect as the registration of a charge by the defendant of a life annuity on his land.

Judgments for alimony may be registered

(2) The order or judgment may also, on the application of the plaintiff, be registered as a charge against any land of the defendant registered under *The Land Titles Act*.

Idem  
R.S.O. 1970, c. 234

(3) The court may direct a sale of the land upon a summary application in the alimony action upon notice to all persons interested in the land. R.S.O. 1960, c. 197, s. 78.

Sale of land

COSTS

**82.**—(1) Subject to the express provisions of any statute, the costs of and incidental to all proceedings authorized to be taken in court or before a judge are in the discretion of the court or judge, and the court or judge has full power to determine by whom and to what extent the costs shall be paid.

Determination of costs

(2) Nothing herein shall deprive a trustee, mortgagee or other person of any right to costs out of a particular estate or fund.

Rights of trustees, etc., preserved

(3) Where an action or issue is tried by a jury, the costs shall follow the event, unless the judge before whom the action or issue is tried in his discretion otherwise orders.

Where costs to follow the event

(4) Costs of proceedings before judicial officers, unless otherwise disposed of, are in their discretion subject to appeal. R.S.O. 1960, c. 197, s. 79.

In proceedings before judicial officers

Crown  
costs

(5) In any proceeding to which Her Majesty is a party, either as represented by the Minister of Justice and Attorney General for Ontario or otherwise, costs adjudged to Her Majesty shall not be disallowed or reduced upon taxation merely because the solicitor or the counsel who earned such costs, or in respect of whose services the costs are charged, was a salaried officer of the Crown performing such services in the discharge of his duty and remunerated therefor by his salary, or for that or any other reason not entitled to recover any costs from the Crown in respect of the services so rendered, and the costs recovered by or on behalf of Her Majesty in any such case shall be paid into the Consolidated Revenue Fund. 1966, c. 73, s. 3, *amended*.

#### PROCEDURE ON APPEALS

Practice and  
procedure  
on appeals  
R.S.O. 1970,  
c. 84  
1953-54,  
c. 51 (Can.)

**83.** Subject as to appeals under *The Controverted Elections Act* to that Act, and as to appeals and applications for new trials under the *Criminal Code* (Canada) to that Act, the practice and procedure upon appeals to the Court of Appeal shall be that provided by the rules. R.S.O. 1960, c. 197, s. 80.

#### EXCLUSION OF PUBLIC

Excluding  
public from  
court

**84.** When the judge presiding at the hearing or trial of a cause or matter deems it to be in the interest of public decency and morals, he may order that the public be excluded from the court. R.S.O. 1960, c. 197, s. 81.

#### OFFICES AND OFFICERS

Officers of  
Supreme  
Court

**85.**—(1) There shall be such officers of the Supreme Court as are considered necessary by the Lieutenant Governor in Council for the due dispatch of the business of the court, and such officers, subject to section 102 as to special examiners, shall be appointed by the Lieutenant Governor in Council.

Duties

(2) The duties of the officers shall be regulated by the rules and by the terms of any order in council governing such officers.

Powers of  
assistant  
masters

(3) Where under a statute, rule or order, or in an action or proceeding, anything is directed to be done by the Master of the Supreme Court, any assistant master has, and shall be deemed to have always had, power to act as fully and effectually as the Master of the Supreme Court. R.S.O. 1960, c. 197, s. 82.

Oath of  
officers

**86.**—(1) Every officer shall, before entering upon the duties of his office, take and subscribe the following oath:

I, . . . . . , of . . . . . solemnly swear that I will according to the best of my skill, learning, ability and judgment, well and faithfully execute and fulfill the duties of the office of . . . . . without favour or affection, prejudice or partiality to any person. So help me God.

(2) The oath shall be administered by a judge in court. R.S.O. 1960, c. 197, s. 83 (1, 2). Administration of oath

(3) Where it is not convenient for a person appointed to an office to attend at Toronto to take the oath, it may be taken before the judge of the county court of the county in which the officer resides, and in every such case the judge shall forthwith transmit the oath to and it shall be filed in the office of the Registrar of the Supreme Court at Toronto. R.S.O. 1960, c. 197, s. 83 (3); 1970, c. 97, s. 8. Exception

**87.** With the approval of the Lieutenant Governor in Council, every local officer of the Supreme Court, county court clerk, and surrogate registrar, may, by writing under his hand and seal of office, appoint a deputy who may perform all the duties required to be performed by the officer making the appointment. R.S.O. 1960, c. 197, s. 84. Appointment of deputies by local registrars, etc.

**88.**—(1) In the event of the death, suspension, resignation, retirement or removal of a local registrar, county court clerk or surrogate registrar, the deputy local registrar, deputy county court clerk or deputy surrogate registrar, as the case may be, is *pro tempore* the local registrar, county court clerk or surrogate registrar, as the case may be, until the suspension is terminated or another person has been appointed and has assumed the duties of the local registrar, county court clerk or surrogate registrar, as the case may be. Vacancy in office of local registrar, etc.

(2) Where there is no deputy local registrar, deputy county court clerk or deputy surrogate registrar, in the absence of or in the event of the death, suspension, resignation, retirement or removal of the local registrar, county court clerk or surrogate registrar, as the case may be, the Crown attorney for the county is *pro tempore* the local registrar, county court clerk or surrogate registrar, as the case may be, until the suspension is terminated or another person has been appointed and has assumed the duties of the local registrar, county court clerk or surrogate registrar, as the case may be. R.S.O. 1960, c. 197, s. 85. Idem

**89.**—(1) Except where in this Act it is otherwise expressly provided, an officer who is paid by salary shall not take for his own benefit, directly or indirectly, any fee or emolument except the salary to which he is entitled, and the fees payable in respect of proceedings in his office are payable to the Crown. Officers paid by salary not to take fees

(2) Subsection 1 does not apply to the fees of, Exceptions

- (a) a local registrar appointed before the 1st day of April, 1953, on an examination had before him as a special examiner or on a reference made to him as an official referee;



- (b) a stenographic reporter for copies of shorthand notes of evidence, who is entitled to take the fees prescribed by order in council. R.S.O. 1960, c. 197, s. 86.

Return of  
fees

**90.**—(1) Every officer paid wholly or partly by fees, whether commuted or not, shall on or before the 15th day of January in every year, transmit to the Inspector of Legal Offices a just, true and faithful account, verified by his oath, of the amount of fees paid or payable to him in respect of his office during the next preceding calendar year, and such other particulars with reference to the business of his office as the Inspector may require.

Form of  
return

(2) The Lieutenant Governor in Council or the minister having charge of the matter may require the return to state any particulars, or to be made in any form that is considered proper, and the return shall be made accordingly. R.S.O. 1960, c. 197, s. 87.

#### WHERE OFFICES TO BE KEPT

Certain  
officers  
to keep  
their offices  
at Osgoode  
Hall

**91.** The officers in Toronto, save the Official Guardian, special examiners, stenographic reporters and any official referee other than one holding that office *ex officio*, shall keep their offices at or adjacent to Osgoode Hall, in the City of Toronto. R.S.O. 1960, c. 197, s. 88; 1970, c. 97, s. 9.

Local  
master  
to keep  
office in  
court house

**92.** Unless otherwise directed by the Lieutenant Governor in Council, every local master shall keep his office in the court house of the county for which he is appointed. R.S.O. 1960, c. 197, s. 89.

Certain  
offices to be  
kept at  
court house

**93.** Every local registrar and every deputy registrar shall, if proper accommodation is afforded to him there, keep his office in the court house of the county for which he is appointed, and, until he can obtain such accommodation, he shall keep his office in some convenient place in the county town. R.S.O. 1960, c. 197, s. 90.

Holiday  
defined  
R.S.O. 1970,  
c. 225

**94.**—(1) In this section, “holiday” means,

- (a) a holiday as defined in *The Interpretation Act*;
- (b) Saturday;
- (c) the day proclaimed as Civic Holiday in the municipality in which the court office is located;
- (d) the 26th day of December in a year in which Christmas Day falls on a day other than Saturday, or the 27th day of December in a year in which Christmas Day falls on a Saturday.

Office hours

(2) Except on holidays when they shall be closed, every local registrar’s office and the offices of the Supreme Court in Toronto shall be kept open from 9.30 o’clock in the forenoon until 4.30 o’clock in the afternoon. 1970, c. 97, s. 10.

## SECURITY FROM OFFICERS

**95.**—(1) Every officer of the Supreme Court, if so required by the Lieutenant Governor in Council, shall give security to Her Majesty for the due performance of the duties of his office in such sum as the Lieutenant Governor in Council may direct.

Officers to give security if required

(2) The neglect to give such security renders the appointment of the officer void, but the forfeiture of office does not affect any act done by him while he continues to act. R.S.O. 1960, c. 197, s. 92.

Consequences of neglecting to do so

## SEALS

**96.**—(1) In the offices of the local registrars and deputy registrars such seals shall be used as the Lieutenant Governor in Council from time to time may direct and they shall be impressed on every writ and other document issued out of such offices, and every such writ and document and every exemplification and copy thereof purporting to be sealed with such a seal shall be received in evidence in all courts without further proof thereof.

Seals of local registrars and deputy registrars

(2) Until other seals are authorized by the Lieutenant Governor in Council, the seals in use shall continue to be used. R.S.O. 1960, c. 197, s. 93.

Seals to be used

## OFFICIAL REFEREES

**97.**—(1) Judges of county courts, the Master of the Supreme Court, registrars, local masters, local registrars, and deputy registrars are official referees for the trial of such questions as are directed to be tried by an official referee.

Official referees

(2) Where the business requires additional official referees, the Lieutenant Governor in Council may appoint them.

Additional referees

(3) Subject to subsection 4 of section 74, the fees on a reference or trial shall be paid in money. R.S.O. 1960, c. 197, s. 94.

Fees of referees

## LOCAL MASTERS

**98.** Unless his appointment otherwise provides, no person who is appointed a local master shall engage in the practice of law or act as a notary public or conveyancer. R.S.O. 1960, c. 197, s. 95.

Local masters not to practise law, etc.

**99.** Where in a county the office of local master is vacant or the local master is absent or ill, any judge of any county court in the county court district may act *pro tempore* as the local master. R.S.O. 1960, c. 197, s. 96.

Vacancies, etc.

## LOCAL REGISTRARS, EX OFFICIO

**100.** Unless another person is appointed, the clerk of the district court is *ex officio* local registrar for his district. R.S.O. 1960, c. 197, s. 97.

Clerks of district courts to be local registrars

## STENOGRAPHIC REPORTERS

Steno-  
graphic  
reporters

**101.**—(1) The stenographic reporters are officers of the court to which they are appointed, and shall perform such other duties as are assigned to them by the Lieutenant Governor in Council or by the rules.

Reporter's  
oath

(2) Every such reporter shall take and subscribe the following oath before a judge of the court to which he is appointed, and the oath shall be filed with the proper officer of that court:

I, . . . . ., solemnly and sincerely promise and swear that I will faithfully report the evidence and proceedings in each case in which I act as stenographic reporter. So help me God.

R.S.O. 1960, c. 197, s. 98.

## SPECIAL EXAMINERS

*Ex officio*  
special  
examiners

**102.**—(1) Every local registrar, deputy registrar and clerk of the county court is *ex officio* a special examiner for the county for which he is appointed. R.S.O. 1960, c. 197, s. 100 (1).

Additional  
special  
examiners  
Number in  
Toronto

(2) The Lieutenant Governor in Council may appoint additional special examiners. 1968, c. 59, s. 4.

Examina-  
tions to be  
taken in  
presence of  
special  
examiner

(3) There shall be at least four special examiners in Toronto.

Examina-  
tions not to  
be solicited

(4) Where an examination is taken by a stenographer or other person who is not a special examiner, it shall be taken in the presence of the special examiner.

(5) A special examiner shall not solicit or make request from any suitor, solicitor, or other person, or offer any inducement to have a special examination taken before him, nor shall any one do so on his behalf with his knowledge or assent, on pain of forfeiture of office.

Appointment  
of special  
examiners,  
*pro tem.*

(6) Where it appears to the Lieutenant Governor in Council that a local registrar, a deputy registrar, or a clerk of a county court, elsewhere than in Toronto, is infirm or ill, or is otherwise unable or unfit to act personally as special examiner, or if he is absent on leave, the Lieutenant Governor in Council may appoint the stenographic reporter for the county court or some other person to act temporarily or otherwise as such special examiner in his stead.

Appoint-  
ment of  
deputy by  
special  
examiner

(7) In case of the absence on leave or illness of any other special examiner he may, with the approval of the Chief Justice of Ontario, appoint a deputy to act for him during such absence or illness. R.S.O. 1960, c. 197, s. 100 (3-7).

## COMMUTATION OF FEES

Commuta-  
tion of fees  
of certain  
officers

**103.**—(1) The Lieutenant Governor in Council may commute the fees payable to an officer entitled to take fees to his own use for a fixed annual sum, not exceeding the average income derived from such fees during the next preceding five years.

(2) An annual sum so fixed and any order in council for payment of any such annual sum may be rescinded, and the amount may be increased or diminished, but in no case shall it exceed the average income or fees, as the case may be, during the next preceding five years. R.S.O. 1960, c. 197, s. 101.

Amount of commutation may be changed

**104.**—(1) Every order in council determining a commutation allowance under this Act shall be laid before the Assembly forthwith, if the Assembly is then in session, and, if the Assembly is not then in session, within the first fifteen days after the opening of the next session.

Order in council as to commutations may be laid before Assembly

(2) If the Assembly at such session, or, if the session does not continue for three weeks after the order in council is laid before the Assembly, then at the next ensuing session, disapproves by resolution of such order in council, either wholly or so far as relates to any person named in it, the order in council, so far as so disapproved, has no effect from the time of the passing of the resolution. R.S.O. 1960, c. 197, s. 102.

Disapproval by Assembly

#### INSPECTOR OF LEGAL OFFICES

**105.**—(1) The Lieutenant Governor in Council may appoint an officer, to be called the Inspector of Legal Offices, to inspect the offices of the Supreme Court, of local courts, of Crown attorneys, and such other offices connected with the administration of justice as the Lieutenant Governor in Council may direct. R.S.O. 1960, c. 197, s. 103.

Inspector of Legal Offices

(2) The Lieutenant Governor in Council may appoint a barrister or solicitor to be the Assistant Inspector of Legal Offices, and, in the absence of the Inspector or if the office of Inspector is vacant or if directed by the Inspector, the Assistant Inspector of Legal Offices has the powers and may perform the duties of the Inspector under this or any other Act. 1962-63, c. 124, s. 47.

Assistant Inspector

**106.**—(1) In addition to any other duties assigned to him by any Act of the Legislature or by the Lieutenant Governor in Council, the Inspector shall,

Duties of Inspector

- (a) make a personal inspection of the offices mentioned in subsection 1 of section 105 and of the books and court papers belonging to them;
- (b) see that proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a proper manner, at proper times and in proper form and order, and that the court papers and documents are properly classified and preserved;
- (c) ascertain that the duties of the officers are duly and efficiently performed;
- (d) see that proper costs and charges only are allowed or exacted;



(e) ascertain whether uniformity of practice prevails in the offices; and

(f) report upon all such matters to the Lieutenant Governor.

Inquiries by  
Inspector

(2) Where the Inspector has occasion to inquire into the conduct of any officer in relation to his official duties or acts, he may require the officer or any other person to give evidence before him on oath, and for that purpose he has the same power to summon the officer or other person to attend as a witness, to enforce his attendance and to compel him to produce books and documents and to give evidence, as any court has in civil cases.

Books, etc.,  
to be pro-  
duced for  
inspection

(3) The officers shall, when and as often as required by the Inspector, produce for examination and inspection all books and documents that are required to be kept by them, and shall report to the Inspector all such matters relating to any cause or proceeding as the Inspector requires. R.S.O. 1960, c. 197, s. 104 (1-3).

Destruction  
of docu-  
ments

(4) Where books, documents, papers or other material have been preserved in the Supreme Court or in a county or district court for so long that it appears they need not be preserved any longer, an order authorizing the Inspector to cause their destruction or other disposition may be made,

(a) in the Supreme Court by the Chief Justice of Ontario; and

(b) in the other courts, by the Chief Judge of the County and District Courts. 1968, c. 59, s. 5.

#### OFFICIAL GUARDIAN

Qualification  
of Official  
Guardian

**107.**—(1) No person shall be appointed Official Guardian unless he is a barrister and solicitor of Ontario of not less than ten years standing. R.S.O. 1960, c. 197, s. 105 (1).

Duties

(2) The Official Guardian shall be the guardian *ad litem* or next friend of infants and other persons in accordance with any Act or the rules or an order of a court or judge. 1960-61, c. 41, s. 2.

Costs

(3) The same costs as are payable to counsel and solicitors are payable to the Official Guardian, but all costs paid to him shall be entered in his books of account or may be paid into court to the credit of an account entitled "Account of the Official Guardian".

Dispensing  
with  
payment of  
costs out of  
small estates

(4) Where an estate is small and the amount at the credit of the Account of the Official Guardian is adequate to pay his salary and the disbursements of his office, the court may direct that no costs be paid to him out of the estate.

Remunera-  
tion

(5) There shall be paid to the Official Guardian for all business done and all costs in respect of it over and above all disbursements, a fixed annual salary of such sum as, in view of the amount of the business done or to be done by him and the sum at the credit

of the account, the finance committee considers reasonable and the Lieutenant Governor in Council approves.

(6) The salary and disbursements shall be paid monthly out of the moneys that are appropriated by the Legislature for that purpose and the Lieutenant Governor in Council may provide for the payment out of the moneys at the credit of the account into the Consolidated Revenue Fund of amounts equal to such salary and disbursements. Salary and disbursements

(7) Out of the surplus at the credit of the account shall be transferred to the Suits Fee Fund Account such amount as the finance committee may direct. Idem

(8) If in any year the amount at the credit of the account is insufficient to pay the salary and disbursements, the deficiency shall be paid out of such reserve funds as the finance committee may direct. Deficiency R.S.O. 1960, c. 197, s. 105 (3-8).

(9) The Lieutenant Governor in Council may appoint one or two persons to act as the deputy or the deputies, as the case may be, of the Official Guardian during his absence or illness, and while so acting each such deputy has all the powers and may perform any of the duties of the Official Guardian. 1965, c. 51, s. 4, *part*. Deputy or deputies

(10) If the office of Official Guardian becomes vacant, the Minister of Justice and Attorney General is *ex officio* Official Guardian until another appointment is made. 1965, c. 51, s. 4, *part, amended*. When Minister of Justice and Attorney General to act

(11) The Official Guardian may retain solicitors out of Toronto as agents for the purpose of any proceeding being carried on out of Toronto, and a solicitor so retained is entitled to the same costs for the work actually done by him as the Official Guardian would have been entitled to if the work had been done by him, and such costs shall be paid to the Official Guardian and the agent's fees and disbursements shall be paid by the Official Guardian and shall be deemed a disbursement of the Official Guardian. R.S.O. 1960, c. 197, s. 105 (11). Agents

(12) The Provincial Auditor shall examine and report upon the accounts and financial transactions of the Official Guardian. 1967, c. 41, s. 2. Audit

(13) If the Lieutenant Governor in Council so directs, the Official Guardian shall not directly or indirectly practise the profession of the law as counsel or solicitor or act as a notary public or conveyancer or do any matter of conveyancing or prepare any paper or document to be used in any court in Ontario except in the discharge of his duties as Official Guardian or of a duty that is assigned to him under this Act. Official Guardian not to practise law, etc.

(14) For every contravention of subsection 13, the Official Guardian shall incur a penalty of \$400. Penalty

Official  
Guardian  
not to give  
security  
for costs

(15) Unless otherwise ordered by the court or a judge, the Official Guardian shall not be required to give security for the cost of any proceeding.

New Official  
Guardian

(16) When a new Official Guardian is appointed, he *ipso facto* becomes and is by virtue of his appointment guardian *ad litem* of all infants in the place and stead of his predecessor with the same rights, duties and powers, and the latter or his executors or administrators shall forthwith deliver to the new Official Guardian all letters, papers, documents and books in his or their possession or power relating to matters in which such predecessor acted as official or other guardian *ad litem* of infants, and the new Official Guardian shall forthwith notify all persons concerned of his appointment. R.S.O. 1960, c. 197, s. 105 (13-16).

#### ACCOUNTANT

Accountant  
a  
corporation  
sole

**108.**—(1) The Accountant of the Supreme Court is a corporation sole by the name of "The Accountant of the Supreme Court of Ontario", and as such corporation sole has perpetual succession and may sue and be sued and may plead and be impleaded in any of Her Majesty's courts.

Money  
mortgages,  
etc., to be  
vested in  
Accountant

(2) All money, mortgages, stocks, securities and property now vested in the Accountant, as such corporation sole, shall continue to be so vested in him, and all money in court and all securities in which money paid into court is invested is vested in him as such corporation sole, subject to this Act.

Where there  
is no  
Accountant

(3) Where there is a vacancy in the office of Accountant, such officer or person as is directed by the rules to perform the duties of the office shall be deemed to be and have all the powers of the Accountant.

Expenses of  
Account-  
ant's office

(4) The expenses of the Accountant's office, including all salaries, are payable out of the moneys that are appropriated therefor by the Legislature, and the Lieutenant Governor in Council may provide for payment out of the income from the funds in court into the Consolidated Revenue Fund of amounts equal to such expenses, and such amounts are the first charge on the income from the funds in court. R.S.O. 1960, c. 197, s. 106.

#### INVESTMENT OF COURT FUNDS

Finance  
committee

**109.**—(1) The finance committee shall continue to be composed of three persons who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council, and, notwithstanding this or any other Act, the finance committee has the control and management of the money in court and the securities in which it is invested and the investment of such money.

Interest

(2) The finance committee may provide for the payment of interest upon any money paid into court and may fix the rate of interest so paid.

(3) The finance committee may establish such reserve funds as it considers expedient in the management of the money in court.

Reserve funds

(4) Money paid into court shall be invested in the name of The Accountant of the Supreme Court of Ontario. R.S.O. 1960, c. 197, s. 107 (1-4).

Investment of court funds

(5) Any money that is available for investment shall be invested in investments in which the Treasurer of Ontario and Minister of Economics may invest public money under section 20 of *The Financial Administration Act*. 1970, c. 5, s. 2.

Investment of money

R.S.O. 1970, c. 166

(6) Where an investment in debentures of a municipal corporation is made, the validity of the debentures is not thereafter open to question but they shall be deemed to be valid.

Debentures invested in not open question

(7) The finance committee may employ a trust company to make the investments of money paid into court or as custodian of the securities representing investments of the money, on such terms and conditions as are agreed.

Trust company may be employed

(8) When an amount exceeding \$50,000 is in court to the credit of an account for investment, the Accountant may, if so directed by the finance committee, notwithstanding any order for payment out of court, withhold payment for three months to enable him to realize upon the securities in which money in court is invested. R.S.O. 1960, c. 197, s. 107 (6-8).

Investment of court funds

**110.** All money, securities, effects and real or personal property vested in or held by the Accountant or by the Official Guardian shall be deemed to be vested in them in trust for Her Majesty, but may, nevertheless, be paid out, sold, disposed of, assigned, conveyed or dealt with in accordance with any statute or the rules, or with any judgment, or order of court, or order of the Lieutenant Governor in Council. R.S.O. 1960, c. 197, s. 108.

Money, etc., vested in Accountant, Guardian, etc., to be deemed to be held in trust for Crown

**111.** Where persons who are subjects of a foreign country having a consul in Canada authorized to act as the official representative of such subjects are entitled to moneys that have been paid into court or that are in the hands of an executor or administrator, the moneys may be paid to the consul. R.S.O. 1960, c. 197, s. 109.

Payment of moneys to which foreigners are entitled

**112.** The Suitors Fee Fund Account shall be kept and managed by the finance committee, and the Court of Appeal or any judge of the Supreme Court may with the approval of the finance committee apply so much of the money at the credit of the account as may be necessary for the protection of any infant or other person not *sui juris* or *non compos mentis*, on whose behalf proceedings may be had in the court, or may be ordered to be had in another court, and the finance committee may also, from time

Suitors fee fund



to time, order to be paid out of the money at the credit of the account any sum required to make good a default in respect of any suitor's money or securities from any mistake, act or omission of any officer of the court, but such payment does not prejudice the right to require the officer or his sureties to make good the loss occasioned by the mistake, act or omission. R.S.O. 1960, c. 197, s. 110.

Audit

**113.** The Provincial Auditor shall examine and report upon the accounts and financial transactions of The Accountant of the Supreme Court of Ontario. 1967, c. 41, s. 3.

## RULES

Rules  
Committee

**114.**—(1) The Rules Committee shall continue to be composed of,

- (a) the Chief Justice of Ontario, the Chief Justice of the High Court and five other judges of the Supreme Court to be appointed by the Chief Justice of Ontario;
- (b) the Chief Judge of the County and District Courts;
- (c) two county or district court judges who shall be appointed by the Minister of Justice and Attorney General;
- (d) the Minister of Justice and Attorney General or such law officer of the Crown as he may from time to time appoint;
- (e) the Master of the Supreme Court;
- (f) three barristers or solicitors who shall be appointed by the Benchers of the Law Society of Upper Canada in convocation; and
- (g) such other barristers or solicitors, not exceeding three at any one time, as may be appointed by the Chief Justice of Ontario. R.S.O. 1960, c. 197, s. 111 (1); 1961-62, c. 65, s. 3; 1965, c. 51, s. 5 (1), *amended*.

Chairman

(2) The Chief Justice of Ontario is the chairman of the Rules Committee, but, in his absence or at his request, the Chief Justice of the High Court shall preside.

Secretary

(3) The Registrar of the Supreme Court is *ex officio* the secretary of the Rules Committee.

Tenure  
of office

(4) Each of the members of the Rules Committee appointed under clause *a*, *c* or *f* of subsection 1 shall hold office for a period of three years and is eligible for a reappointment. R.S.O. 1960, c. 197, s. 111 (2-4).

Idem

(5) Each of the members of the Rules Committee appointed under clause *g* of subsection 1 shall hold office for a period of one year and is eligible for reappointment. 1965, c. 51, s. 5 (2).

(6) In case of the resignation, death or inability to act of any member appointed under clause *a, c, f* or *g* of subsection 1, the Chief Justice of Ontario, Minister of Justice and Attorney General or Benchers of the Law Society of Upper Canada, as the case may be, may appoint another member similarly qualified to hold office for the unexpired portion of the term of the member who has resigned or died or is unable to act. R.S.O. 1960, c. 197, s. 111 (5); 1965, c. 51, s. 5 (3), *amended*. Vacancy  
in office

(7) A majority of the members of the Rules Committee constitutes a quorum. Quorum

(8) The Rules Committee shall hold an annual meeting on the first Monday following Christmas Day that is not a holiday at the City of Toronto or at such other time and place as the chairman may direct. Annual  
meeting

(9) The chairman may at any time and upon the written request of any three members shall direct the secretary to call a meeting of the Rules Committee at such time and place as he may determine. R.S.O. 1960, c. 197, s. 111 (6-8). Other  
meetings

(10) Subject to the approval of the Lieutenant Governor in Council, the Rules committee may at any time amend or repeal any of the rules and may make any further or additional rules for carrying this Act into effect, and in particular for, Power to  
make rules

- (a) regulating the sittings of the courts;
- (b) regulating the pleading, practice and procedure in the Supreme Court and in the county and surrogate courts;
- (c) allowing service out of Ontario;
- (d) prescribing and regulating the proceedings under any statute that confers jurisdiction upon the court or a judge;
- (e) fixing the vacations;
- (f) empowering the Master of the Supreme Court, or any officer sitting for him, or the local judges, or the local masters in respect of actions brought in their counties, to do any such thing, and to transact any such business, and to exercise any such authority and jurisdiction in respect of the same as are or may be done, transacted or exercised by a judge of the Supreme Court in court upon motions for judgment in undefended actions, for the appointment of receivers by way of equitable execution and for *ex parte* injunctions and upon motions in chambers or as are specified in the rules except in respect of matters relating to,
  - (i) the liberty of the subject,
  - (ii) appeals and applications in the nature of appeals,
  - (iii) proceedings under *The Mental Incompetency Act*,

R.S.O. 1970,  
c. 470

- (iv) applications for advice under *The Trustee Act*;
- (v) matters affecting the custody of children, other than interlocutory applications for their interim custody or maintenance,
- (vi) proceedings enabling infants to make binding settlements of their real and personal property on marriage;
- (g) regulating generally any matters relating to the practice and procedure of the courts or to the duties of the officers thereof, or to the costs of proceedings therein, and every other matter deemed expedient for better attaining the ends of justice, advancing the remedies of suitors and carrying into effect this Act and all other Acts respecting the courts;
- (h) regulating all fees payable to the Crown in respect of proceedings in any court. R.S.O. 1960, c. 197, s. 111 (9); 1968, c. 59, s. 6.

Power to  
modify  
statutory  
provisions  
as to  
procedure

(11) Where provisions in respect of practice or procedure are contained in any statute, rules may be made modifying such provisions to any extent that is considered necessary for adapting them to the general practice and usage of the court, unless that power is expressly excluded.

Provisions  
as to pay-  
ment into  
or out of  
court of  
money, etc.

(12) Any provisions relating to the payment, transfer or deposit into, or in, or out of any court of any money or property, or to the dealing therewith, shall, for the purposes of this section, be deemed to be provisions relating to practice and procedure. R.S.O. 1960, c. 197, s. 111 (10, 11).

#### COUNCIL OF JUDGES

Council of  
judges

**115.**—(1) A council of the judges of the Supreme Court, of which due notice shall be given to all of them, shall assemble at least once in every year on such day as may be fixed by the Chief Justice of Ontario for the purpose of considering the operation of this Act and of the rules and the working of the offices and the arrangements relative to the duties of the officers of the court, and of enquiring and examining into any defects that appear to exist in the system of procedure or the administration of justice in the Supreme Court or in any other court or by any other authority. R.S.O. 1960, c. 197, s. 112 (1); 1968-69, c. 54, s. 1.

Council to  
report to  
Lieutenant  
Governor

(2) The council shall report to the Lieutenant Governor what amendments or alterations, if any, it would be expedient to make in this Act or otherwise relating to the administration of justice, and what other provision, if any, it would be expedient to make for the better administration of justice.

Extraordi-  
nary  
councils

(3) An extraordinary council for the purposes mentioned in subsection 1 may also be convened at any time by the Lieutenant Governor in Council. R.S.O. 1960, c. 197, s. 112 (2, 3).

## DELEGATION OF POWERS OF JUDGES

**116.**—(1) Where by this or any other Act any power or authority is conferred upon the judges of the Supreme Court or upon the judges of the High Court as a body, they may respectively delegate such power or authority to a committee of themselves, and when it is exercised by the committee, the acts done by the committee have the same effect as if they had been done by the body by which the committee was appointed.

Delegation  
of powers  
of judges

(2) The presence of a majority of the members of the committee is necessary to constitute a quorum for the transaction of business.

Quorum

(3) Subsection 1 does not apply to a council of the judges provided for by section 115. R.S.O. 1960, c. 197, s. 113.

Application  
of subs. 1

## QUORUM OF MEETINGS OF JUDGES

**117.** Where by this Act any power is conferred on the judges of the Supreme Court or of the High Court, the power may be exercised at a meeting duly called at which, in the case of the Supreme Court, at least seven of the judges are present and, in the case of the High Court, at least five of the judges are present. R.S.O. 1960, c. 197, s. 114.

Quorum of  
meetings  
of judges

## LOCAL JUDGES OF THE HIGH COURT

**118.**—(1) Every judge of a county court is a local judge of the High Court for the purposes of his jurisdiction in actions in the Supreme Court, and may be styled a local judge of the Supreme Court, and has, in all causes and actions in the Supreme Court, subject to the rules, power and authority to do and perform all such acts and transact all such business in respect of matters and causes in or before the High Court as he is by statute or the rules empowered to do and perform.

County  
court  
judges  
are local  
judges

(2) Where a county court judge is authorized to exercise jurisdiction in a county other than the county for which he is appointed, he has, while exercising jurisdiction in such county, the like power as a local judge of the High Court as though he were a judge of the county court of such county. R.S.O. 1960, c. 197, s. 115 (1, 2).

Powers of  
county  
judge  
outside  
county

(3) Without limiting the generality of subsections 1 and 2, the jurisdiction of the local judges of the High Court extends to the exercising of all such powers and authorities and the performing of such acts and the transacting of all such business as may be

Jurisdiction  
of local  
judges in  
divorce  
actions



1967-68,  
c. 24 (Can.)

exercised, performed or transacted by the Supreme Court or a judge thereof under the *Divorce Act* (Canada). 1970, c. 97, s. 11 (2).

#### SHERIFFS, ETC.

Sheriffs,  
jailers, etc.,  
to obey  
orders of  
the court

**119.** Sheriffs, deputy sheriffs, jailers, constables and other peace officers, shall aid, assist and obey the court and the judges thereof in the exercise of the jurisdiction conferred by this Act, and otherwise, whenever by the rules or by the order of the court or of a judge required so to do. R.S.O. 1960, c. 197, s. 116.

#### PRISONS OF THE COURT

Correctional  
institutions  
to be  
prisons of  
the court

**120.** All correctional institutions in Ontario are prisons of the court. R.S.O. 1960, c. 197, s. 117 *amended*.

#### OATHS AND AFFIDAVITS

Administra-  
tion of oaths

**121.** Every officer of the Supreme Court has, for the purposes of any proceeding before him, power to administer oaths and to examine parties and witnesses. R.S.O. 1960, c. 197, s. 118.

#### WITNESS FEES

Fees of  
certain  
officers  
producing  
documents

**122.** A public official or other witness subpoenaed or called upon to produce before any court or other tribunal any public or other document is not entitled to more than ordinary witness fees, unless the court or other tribunal otherwise orders. R.S.O. 1960, c. 197, s. 119.

#### PROVISIONS APPLICABLE TO COUNTY COURTS

Certain  
sections  
apply to  
county  
courts

**123.** In addition to the provisions of this Act that are expressly made applicable to all courts or county courts or are otherwise by their terms so applicable, sections 27, 35, 38, 41, 56 to 58, 64 to 68, 79, 80, 82, 119 and 120, *mutatis mutandis* apply to the county courts. R.S.O. 1960, c. 197, s. 120.

#### COMMISSIONS FOR HOLDING SITTINGS, ETC.

Power to  
issue  
commissions  
not to be  
affected

**124.** This Act does not affect the power to issue commissions for the discharge of civil or criminal business on circuit or otherwise. R.S.O. 1960, c. 197, s. 121.

Judge to  
constitute  
court

**125.** Any judge presiding at any sittings of the court or in chambers shall be deemed to constitute the court. R.S.O. 1960, c. 197, s. 122.

ACCESS TO BOOKS

**126.**—(1) Every person shall have access to and is entitled to inspect the books of the Supreme Court and of the county courts, containing records or entries of the writs issued, judgments entered, and chattel mortgages and bills of sale registered, and no person desiring such access or inspection shall be required, as a condition of his right thereto, to furnish the names of the parties or the style of the causes or matters in respect of which the access or inspection is sought.

Books in which writs, judgments, etc., are entered to be open to inspection

(2) Every officer having the charge or custody of any such book shall upon request produce for inspection any writ of summons or copy thereof so issued, and any judgment roll, or any chattel mortgage or bill of sale so registered in his office or of which records or entries are by law required to be kept in such book.

Production of writs of summons, etc.

(3) The fee payable in respect of such inspection is 25 cents for a general search, and 10 cents for each writ of summons, judgment roll, chattel mortgage or bill of sale inspected, and 10 cents per folio is also payable for all extracts, whether made by the person making the search or by the officer.

Fee

(4) A person affected by any record in any court, whether it concerns the Queen or other person, is entitled, upon payment of the proper fee, to search and examine it and to have an exemplification or a certified copy thereof made and delivered to him by the proper officer. R.S.O. 1960, c. 197, s. 123.

Persons entitled to search and to copies of records of courts

PLEADINGS TO BE IN ENGLISH

**127.** Writs, pleadings and proceedings in all courts shall be in the English language only, but the proper or known names of writs or other process, or technical words, may be in the same language as has been commonly used. R.S.O. 1960, c. 197, s. 124.

Writs, pleadings, and proceedings to be in English

DEMISE OF CROWN

**128.** No action or other proceeding in any court shall be discontinued or stayed by reason of the demise of the Crown, but it shall be proceeded with as if such demise had not happened. R.S.O. 1960, c. 197, s. 125.

Demise of Crown not to affect pending proceedings

SERVICE OF PROCESS ON THE LORD'S DAY

**129.** No person upon the Lord's Day shall serve or execute, or cause to be served or executed, any writ, process, warrant, order or judgment, except in cases of treason, felony, or breach of the peace, and the service of every such writ, process, warrant, order or judgment on the Lord's Day is void, and the person so serving or executing it is as liable to the suit of the party grieved, and to

Service of process on the Lord's Day

answer damages to him for doing thereof, as if he had done the same without any writ, process, warrant, order or judgment. R.S.O. 1960, c. 197, s. 126.

#### ACTIONS ON BONDS

In actions on bonds, etc., plaintiff may assign as many breaches as he pleases

**130.**—(1) In an action commenced or prosecuted in any court upon a bond for non-performance of any covenant or agreement in any indenture, deed or writing, the plaintiff may assign as many breaches as he thinks fit, and, upon trial of such action, not only such damages and costs as have heretofore been usually assessed shall be assessed, but also damages for such of the breaches so assigned as the plaintiff upon the trial of the issues proves, and the like judgment shall be entered as heretofore in such action.

Default judgment

(2) If judgment is given for the plaintiff by confession or default, he may suggest as many breaches of the covenants and agreements as he thinks fit, and the damages that he has sustained thereby shall be assessed, and, if the defendant after such judgment entered and before any execution executed, pays into the court in which the action is brought to the use of the plaintiff such damages so to be assessed by reason of all or any of the breaches of such covenants or agreements, together with the costs of suit, a stay of execution on the judgment shall be entered upon record.

Judgment to remain to answer any further breach

(3) If by reason of any execution executed the plaintiff or his executors or administrators are fully paid or satisfied, all such damages so to be assessed, together with his or their costs of suit and all reasonable charges and expenses for executing the execution the body, land or goods of the defendant shall be thereupon forthwith discharged from the execution, which shall likewise be entered upon record; but such judgment shall, nevertheless, remain, continue and be as a further security to answer to the plaintiff and his executors or administrators such damages as shall or may be sustained for further breach of any covenant or agreement in the same indenture, deed or writing contained upon which the plaintiff may apply to the court in which judgment is entered for leave to issue execution upon the judgment against the defendant, or his executors or administrators, suggesting other breaches of the covenants or agreements, and to call upon him or them to show cause why execution shall not be awarded upon the judgment, upon which the court shall make such order as is considered just. R.S.O. 1960, c. 197, s. 127 (1-3).

Stay of proceedings

(4) Upon payment or satisfaction of such future damages, costs and charges, all further proceedings on the judgment shall again be stayed as often as occasion arises, and the defendant, his body, land or goods shall be discharged out of execution. R.S.O. 1960, c. 197, s. 127 (4), *amended*.

SET OFF

**131.** Where there are mutual debts between the plaintiff and defendant or, if either party sue or be sued as executor or administrator, where there are mutual debts between the testator or intestate and either party, one debt may be set against the other. R.S.O. 1960, c. 197, s. 128.

Mutual  
debts

**132.**—(1) Mutual debts may be set against each other, notwithstanding that such debts are deemed in law to be of a different nature, except where either of the debts accrue by reason of a penalty contained in any bond or speciality.

Idem

(2) Where either the debt for which the action is brought or the debt intended to be set against the same has accrued by reason of any such penalty, the debt intended to be set off shall be pleaded and it shall be shown by the pleading how much is truly and justly due on either side, and if the plaintiff recovers in any such action, judgment shall be entered for no more than appears to be truly and justly due to the plaintiff after one debt is set against the other. R.S.O. 1960, c. 197, s. 129.

Judgment  
only for  
balance due  
after set off

**133.** If, upon a defence of set off, a larger sum is found to be due from the plaintiff to the defendant than is found to be due from the defendant to the plaintiff, the defendant is entitled to judgment for the balance remaining due to him. R.S.O. 1960, c. 197, s. 130.

Defendant  
to be entitled  
to judgment  
for balance  
due after set  
off

PAYMENT POST DIEM

**134.** Where an action is brought upon a bill or where an action is brought upon a judgment, if the defendant has paid the money due upon the bill or judgment the payment may be pleaded in the action, and where an action is brought upon a bond that has a condition or defeazance to make void the same upon payment of a lesser sum at a day or place certain, if the obligor, his heirs, executors or administrators have before the action brought, paid to the obligee, his executors or administrators the principal and interest due by the condition or defeazance of the bond, though the payment was not made strictly according to the condition or defeazance, yet it may nevertheless be pleaded in the action, and is as effectual a bar thereof as if the money had been paid at the day and place according to the condition or defeazance and had been so pleaded. R.S.O. 1960, c. 197, s. 131.

Plea of pay-  
ment bar  
in action of  
debt, etc.

**135.** If, at any time pending an action upon a bond with a penalty, the defendant brings into court all the principal money and interest due on the bond and also all such costs as have been expended in any suit upon the bond, the money so brought in shall be deemed and taken to be in full satisfaction and discharge of the bond, and the court may give judgment to discharge the defendant of and from the bond accordingly. R.S.O. 1960, c. 197, s. 132.

Principal,  
interest, and  
costs  
brought  
into court  
pending  
action upon  
bond



## ACTIONS OF ACCOUNT

Actions of account by and between joint tenants as bailiffs, etc.

**136.** Actions of account may be brought and maintained against the executors or administrators of a guardian, bailiff or receiver, and also by one joint tenant or tenant in common, his executors or administrators, against the other as bailiff for receiving more than comes to his just share or proportion, and against the executor or administrator of such joint tenant or tenant in common. R.S.O. 1960, c. 197, s. 133.

## PERPETUATING TESTIMONY

Actions to perpetuate testimony

**137.** Any person who would, under the circumstances alleged by him to exist, become entitled, upon the happening of any future event, to any office or to any estate or interest in any property, real or personal, the right or claim to which cannot by him be brought to trial before the happening of the event, is entitled to maintain an action in the Supreme Court to perpetuate any testimony that may be material for establishing his claim or right, and all laws, rules and regulations, not contrary to this section, in force or in use in suits to perpetuate testimony, or respecting depositions taken in such actions in making such depositions, are in force and shall be used and applied in all actions instituted under this section and in respect of depositions taken in the action. R.S.O. 1960, c. 197, s. 134.

Minister of Justice and Attorney General may be party defendant in actions in which the Crown may have any estate or interest

**138.** In all actions instituted under section 137 touching any office or any other matter or thing in which the Crown may have any estate or interest, it is lawful to make the Minister of Justice and Attorney General a party defendant thereto, and in all proceedings in which the depositions taken in any such action in which the Minister of Justice and Attorney General was so made a defendant may be offered in evidence, the depositions may be admissible notwithstanding any objection to the depositions upon the ground that the Crown was not a party to the action in which the depositions were taken. R.S.O. 1960, c. 197, s. 135, *amended*.

## INDEMNITY TO PERSONS ACTING UNDER JUDGMENT

Protection of persons acting on order or judgment

**139.** Any order or judgment of the court made in an action or upon an originating motion, special case or in any other way permitted by the rules or any statute effectually protects and indemnifies any person acting thereon in good faith. R.S.O. 1960, c. 197, s. 136.

## CONTEMPT

Court may appoint person to execute instrument for person in contempt

**140.**—(1) Where a person has been directed by a judgment or order to execute a deed or other instrument, or make a surrender or transfer, and has refused or neglected to execute the deed or instrument, or make the surrender or transfer, and has been committed to prison under process for such contempt, or, being

confined in prison for any other cause, has been charged with or detained under process for such contempt and remains in prison, the court may grant a vesting order or may order or appoint an officer of the court to execute the deed or other instrument or to make the surrender or transfer for and in the name of such person.

(2) The execution of such deed or other instrument, or the surrender or transfer in his name made by such officer, has in all respects the same force and validity as if it had been executed or made by the person himself. Effect of instrument

(3) Thereupon the person in contempt shall be considered as having cleared his contempt, except as regards the payment of the costs of the contempt, and is entitled to an order that he be discharged from custody, and the court shall make such order as is considered just touching the payment of the cost of or concerning the deed or other instrument, surrender or transfer. R.S.O. 1960, c. 197, s. 137. Discharge of person in contempt

**141.**—(1) Where a person is committed for a contempt in not delivering to any person, or depositing in court or elsewhere, as by an order may be directed, books, papers, or any other articles or things, any sequestrator appointed under any commission of sequestration has the same power to seize and take the books, papers, or other articles or things, being in the custody or power of the person against whom the sequestration issues, as he would have over his own property, and thereupon the books, papers, or other articles or things so seized and taken shall be dealt with as the court considers proper. Power of sequestrator in cases of contempt

(2) After such seizure the court may, upon the application of the prisoner or of any other person in the cause or matter, or upon any report, make such order for the discharge of the prisoner upon such terms as to costs and otherwise as the court considers proper. R.S.O. 1960, c. 197, s. 138. Power of court to discharge

**142.** Where a person committed for a contempt is entitled to his discharge upon applying to the court but omits to make the application, the court may compulsorily discharge the person from custody and direct payment of the costs of the contempt out of any funds belonging to him over which the court has power, or may order payment of the costs by the person. R.S.O. 1960, c. 197, s. 139. Court may compulsorily discharge prisoners confined for contempt

#### CHARGING ORDERS ON STOCKS, ETC.

**143.**—(1) If a person against whom a judgment has been entered in any of Her Majesty's courts in Ontario has any government stock, funds or annuities, or any stock or shares of or in a public company in Ontario, whether incorporated or not, standing in his name in his own right, or in the name of any person Orders charging stocks, etc.

in trust for him, a judge of the Supreme Court, on the application of any judgment creditor, may order that the stock, funds, annuities, or shares of such of them or such part thereof as he thinks fit shall stand charged with the payment of the amount for which judgment has been so recovered, and interest thereon, and the order entitles the judgment creditor to all such remedies as he would have been entitled to if the charge had been made in his favour by the judgment debtor; but no proceedings shall be taken to have the benefit of the charge until after the expiration of six months from the date of the order.

Order to be made in the first instance *ex parte*

(2) Every such order shall be made in the first instance *ex parte* and without any notice to the judgment debtor and is an order to show cause only, and the order, if any government stock, funds or annuities standing in the name of the judgment debtor in his own right or in the name of any person in trust for him are to be affected, restrains any transfer thereof being made in the meantime and until the order has been made absolute or discharged; and if any stock or shares of or in any public company standing in the name of the judgment debtor in his own right or in the name of any person in trust for him are to be affected by the order, in like manner restrains such public company from permitting a transfer thereof.

Liability of persons disregarding order

(3) If, after notice of such order to the person to be restrained thereby, or, in the case of a corporation, to any authorized agent of the corporation, and before the order is discharged or made absolute, the corporation or person permits any such transfer to be made, the corporation or person so permitting the transfer is liable to the judgment creditor for the value or amount of the property so charged and so transferred, or such part thereof as is sufficient to satisfy his judgment, and no disposition of the judgment debtor in the meantime is valid or effectual as against the judgment creditor.

When order absolute

(4) Unless the judgment debtor, within a time to be mentioned in such order, shows to a judge sufficient cause to the contrary, the order shall, after proof of notice thereof to the judgment debtor, his solicitor or agent, be made absolute.

Varying or discharging orders

(5) A judge, upon the application of the judgment debtor or any person interested, may discharge or vary such order.

Property of judgment debtors defined and extended

(6) This section extends to the interest of a judgment debtor, whether in possession, remainder, or reversion, and whether vested or contingent as well in any such stock,<sup>4</sup> funds, annuities or shares, as also in the dividends, interest or annual produce of any such stock, funds, annuities or shares.

Order affecting funds in court

(7) Where such a judgment debtor has an estate, right, title or interest, vested or contingent, in possession, remainder, or reversion in or to stock, funds, annuities or shares standing in the name



of The Accountant of the Supreme Court or in or to the dividends, interest or annual produce thereof, the judge may make any order as to the stock, funds, annuities or shares, or the interest, dividends or annual produce thereof, in the same way as if the same had been standing in the name of a trustee of the judgment debtor.

(8) No such order as to any stock, funds, annuities or shares standing in the name of the Accountant, or as to the interest, dividends or annual produce thereof, prevents any incorporated bank or any public company from permitting a transfer of the stock, funds, annuities or shares, or payment of the interest, dividends or annual produce thereof, in such manner as the Supreme Court directs, or has any greater effect than if the judgment debtor had charged the stock, funds, annuities or shares, or the interest, dividends or annual produce thereof, in favour of the judgment creditor with the amount of the sum mentioned in the order. R.S.O. 1960, c. 197, s. 140.

Effect of  
order

#### PENAL ACTIONS

**144.**—(1) In a penal action brought in good faith in which the defendant sets up a prior judgment, the plaintiff may reply in avoidance of the prior judgment that the prior judgment was had by covin or collusion, and no release by any person before or after action for a penalty is a ground for staying the action.

Reply in  
penal  
actions

(2) No plaintiff in such an action shall be permitted to set up by way of reply, or otherwise, a charge of covin or collusion, where the merits of the matter in question in the action or a like charge of covin or collusion have been once tried and found either for or against the plaintiff. R.S.O. 1960, c. 197, s. 141.

Exception

**145.** No person shall sue as a common informer in a penal action unless he is *sui juris*. R.S.O. 1960, c. 197, s. 142.

Informer  
must be  
*sui juris*

**146.** No penal action brought by a common informer shall be compounded without the leave of the court. R.S.O. 1960, c. 197, s. 143.

Compound-  
ing penal  
action

#### QUO WARRANTO PROCEEDINGS

**147.**—(1) Except in the cases mentioned in section 148, all proceedings against any person who unlawfully claims or usurps, or is alleged unlawfully to claim or to usurp any office, franchise or liberty, or who has forfeited or is alleged to have forfeited any franchise by reason of non-user or mis-user thereof, that were formerly instituted or taken by writ of *quo warranto*, or by information in the nature of a writ of *quo warranto*, shall be instituted and taken, where the proceeding is by the Minister of Justice and Attorney General *ex officio*, by notice of motion calling on the person against whom the proceeding is taken to

*Quo*  
*warranto*  
writ  
superseded,  
in certain  
cases



show cause why he unlawfully exercises or usurps such office, franchise or liberty.

Where  
relator  
named,  
proceed-  
ing, how  
framed

(2) Where the proceeding is at the instance of a relator, it shall be taken in the name of Her Majesty on the relation of such person, and such person shall before serving the notice of motion give security for the due and effectual prosecution thereof in like manner as nearly as may be and in the like amount as is, according to the practice of the Supreme Court, required to be given on an application to quash a conviction or order made by a justice of the peace, or in such manner and amount as the court may direct.

Issue may  
be directed  
or  
injunction,  
etc., granted

(3) The court may direct an issue for the trial of the matters in question on any such application, and may grant an injunction or a mandatory order in aid of the proceedings, or for the purpose of enforcing the judgment or order that is pronounced thereon.

Practice and  
appeals

(4) The practice and procedure, including the right of appeal, shall be, in all other respects, in accordance with the ordinary practice and procedure of the Supreme Court. R.S.O. 1960, c. 197, s. 144.

Municipal  
and school  
officers

**143.**—(1) Where it is intended to call in question the right of any person claiming to be a municipal officer, or an officer of a school corporation, to the office that he claims to hold, exercise or occupy as such officer, or the right of a member of any school board or school corporation to have, hold or enjoy any office, either as a member of such board or corporation or otherwise under the school laws of Ontario, and subsection 2 does not apply to the trial and determination of such question, the matter shall be tried and determined by the judge of the county court of the county in which the duties of the office are to be performed, in a summary manner, and the proceedings shall be the same, as nearly as may be, as those provided for trying and determining a complaint respecting the validity or mode of conducting the elections of school trustees in an urban municipality, except that such judge has the same power to award costs to either party to the proceedings as he would have if the same were a proceeding in the county court.

Where other  
special  
statutory  
provision,  
subs. 1, not  
to apply

(2) Nothing in subsection 1 applies to or affects the proceedings in cases for which special provision is made by the municipal or school laws of Ontario, but in all such cases the proceedings shall be instituted and taken in the manner provided by those Acts, and not otherwise. R.S.O. 1960, c. 197, s. 145.

#### CERTAIN PRACTICE AND PROCEDURE NOT AFFECTED

Criminal  
matters and  
Dominion  
controversied  
elections not  
affected

**149.** Nothing in this Act affects the practice or procedure in criminal matters or matters connected with Dominion controverted elections. R.S.O. 1960, c. 197, s. 146.

## CHAPTER 229

**The Junior Farmer Establishment Act****1. In this Act,**Interpre-  
tation

- (a) “borrower” means a person to whom a loan is made under this Act;
- (b) “Corporation” means The Ontario Junior Farmer Establishment Loan Corporation;
- (c) “directors” means the directors of the Corporation;
- (d) “economic farm unit” means one or more parcels of land and buildings capable of operation to produce sufficient income,
  - (i) to repay the money borrowed under this Act and interest thereon in accordance with the terms on which the loan is made,
  - (ii) to carry out and maintain the required improvements on the farm,
  - (iii) to replace live stock and farm equipment as required from time to time,
  - (iv) to pay the annual costs of operating the farm, and
  - (v) to support in a reasonable manner the junior farmer and his family, and any other person depending upon the farm for support;
- (e) “family farm” means a farm operated by a junior farmer and one or more persons related to him through blood relationship, marriage or adoption;
- (f) “farming” includes tillage of the soil, raising of live stock, dairying, apiculture and raising of fur-bearing animals;
- (g) “incorporated family farm” means a family farm where the junior farmer and other persons are incorporated as a corporation under *The Corporations Act* or *The Business Corporations Act*, and the junior farmer is an officer of such corporation;
- (h) “junior farmer” means a person who complies with clauses *a* to *e* of subsection 1 of section 11;
- (i) “live stock” means cattle, sheep, swine, horses, goats or poultry;
- (j) “regulations” means regulations made under this Act;
- (k) “Treasurer” means the Treasurer of Ontario and Minister of Economics. 1962-63, c. 66, s. 1, *amended*.

R.S.O. 1970,  
cc. 89, 53

Corporation  
continued  
and object

**2.—**(1) The Ontario Junior Farmer Establishment Loan Corporation is continued and has as its object the making of loans to junior farmers and owners of,

- (a) family farms and incorporated family farms where one of the family members is a junior farmer; and
- (b) farms operated as partnerships where one of the partners is a junior farmer,

in the establishment, development and operation of their farms. 1962-63, c. 66, s. 2.

Membership

(2) The Corporation shall continue to be composed of three members who shall hold office as members during the pleasure of the Lieutenant Governor in Council and who shall be such officers in the public service of Ontario as the Lieutenant Governor in Council from time to time appoints.

Board of  
directors

(3) The three members for the time being of the Corporation shall form and be its board of directors and the Lieutenant Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the board.

Manage-  
ment

(4) Subject to the regulations, the affairs of the Corporation shall be under the management and control of the board of directors and, in the absence of the chairman or if at any time that office is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman.

Quorum

(5) Two directors constitute a quorum at meetings of the board of directors. R.S.O. 1960, c. 198, s. 1 (2-5).

Borrowing  
powers

**3.—**(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time borrow or raise by way of loan such sums of money as the Corporation considers requisite for its purposes in any one or more, or partly in one and partly in another, of the following ways:

1. By the issue and sale of debentures, bills or notes of the Corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at such time or times, in such currency or currencies and at such place or places as the Corporation determines.
2. By temporary loan or loans from any chartered bank or banks or from any person either by way of bank overdraft or loan or in any other manner whatsoever as the Corporation determines.

Purposes  
of  
Corporation

(2) The purposes of the Corporation shall, without limiting the generality thereof, include,

- (a) the carrying out of the object of the Corporation mentioned in section 2;

- (b) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money raised by way of loan or of any securities issued by the Corporation;
- (c) the repayment in whole or in part of any advances made by Ontario to the Corporation or of any securities of the Corporation issued and delivered to the Treasurer in respect of any advances; and
- (d) the payment of the whole or any part of any obligation, liability or indebtedness of the Corporation.

(3) Subject to the approval of the Lieutenant Governor in Council, the Corporation may sell any debentures, bills or notes of the Corporation either at, or at less or more than, the par value thereof and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security.

Sale, etc.,  
of Cor-  
poration's  
securities

(4) A recital or declaration in a resolution or minute of the Corporation authorizing the issue and sale of debentures, bills or notes of the Corporation to the effect that it is necessary to issue and sell such debentures, bills or notes for the purposes of the Corporation in the amount authorized is conclusive evidence to that effect.

Authoriza-  
tion

(5) Debentures, bills or notes of the Corporation shall be sealed with the seal of the Corporation and may be signed by the chairman or vice-chairman of the Corporation and by the secretary or other officer of the Corporation, and any interest coupon that may be attached to any debenture, bill or note of the Corporation may be signed by the secretary or other officer of the Corporation.

Sealing,  
signing, etc.

(6) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seal of the Corporation when so reproduced has the same force and effect as if manually affixed, and any such signature is for all purposes valid and binding upon the Corporation notwithstanding that any person whose signature is so reproduced has ceased to hold office. R.S.O. 1960, c. 198, s. 2.

Mechanical  
reproduction  
of seal and  
signature  
authorized

4. A debenture, bill or note of the Corporation may be made redeemable in advance of maturity at such time or times, at such price or prices and on such terms and conditions as the Corporation determines at the time of the issue thereof. R.S.O. 1960, c. 198, s. 3.

Securities  
of  
Corporation  
may be made  
redeemable  
in advance

5. Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the board of directors may provide for its replacement on such terms as to evidence and as to indemnity as the board requires. R.S.O. 1960, c. 198, s. 4.

Lost  
debentures



Guarantee  
of payment  
by Province  
of Ontario

**6.**—(1) The Lieutenant Governor in Council may authorize the Treasurer to guarantee payment by the Province of Ontario of any debentures, bills or notes issued by or of any temporary loan made to the Corporation under the authority of this Act.

Form of  
guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council.

Validity  
of guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever.

Guaranteed  
debentures,  
etc., to be  
indefeasible

(4) A debenture, bill or note issued by or temporary loan made to the Corporation, payment whereof is guaranteed by the Province of Ontario under this section, is valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. R.S.O. 1960, c. 198, s. 5.

Trustees,  
etc., invest-  
ments in  
debentures

**7.** Notwithstanding anything in any other Act, debentures issued by the Corporation are at all times a lawful investment for municipal, school and trust funds. R.S.O. 1960, c. 198, s. 6.

Audit

**8.** The books and accounts of the Corporation shall be audited annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council designates, and such auditor shall make an annual report of the audit to the Treasurer, and the Treasurer shall table the report in the Assembly if it is in session or, if it is not, then at the next ensuing session. R.S.O. 1960, c. 198, s. 7.

Annual  
report

**9.** The Corporation shall make an annual report in writing to the Treasurer showing in detail the number and amount of loans made by it during the last preceding fiscal year, and containing such other particulars as the Treasurer requires, and the Treasurer shall table the report in the Assembly if it is in session or, if it is not, then at the next ensuing session. R.S.O. 1960, c. 198, s. 8.

Committees

**10.** The Corporation, with the approval of the Lieutenant Governor in Council, may appoint committees, each of which shall be composed of two or more persons, one of whom is or has been a practical farmer, to consider and report to the Corporation upon applications and upon problems that may arise in connection with loans already made. R.S.O. 1960, c. 198, s. 9.

Purposes  
of loans

**11.** Out of the moneys at its disposal from time to time, the Corporation may make loans for the following purposes and no other:

1. The acquisition of land for agricultural purposes.

2. The erection and improvement of farm houses and farm buildings.
3. To pay off charges existing against land at the time of acquisition by the borrower under a will or by descent.
4. To pay off encumbrances.
5. To consolidate outstanding liabilities incurred for productive agricultural purposes.
6. For the purpose of providing drainage.
7. To purchase live stock.
8. For such purposes relating to the establishment, development and operation of the borrower's farm as the Corporation approves. R.S.O. 1960, c. 198, s. 10; 1962-63, c. 66, s. 3.

**12.**—(1) An applicant for a loan under this Act may be required to appear in person before the board of directors of the Corporation or a committee and shall submit evidence to the satisfaction of the board or committee, Qualifications of applicants for loans

- (a) that he is of the full age of twenty-one years and not more than thirty-five years of age on the day the application is received by the Corporation;
- (b) that he has been resident in Ontario for at least three years immediately preceding his application;
- (c) that he has had a minimum of three years experience in farming and has displayed the ability and capacity necessary to operate a farm;
- (d) that he is industrious and of good character; and
- (e) that he is actually farming, or intends to farm, on a full-time basis on the land upon the security of which the loan is applied for. R.S.O. 1960, c. 198, s. 11; 1962-63, c. 66, s. 4 (1).

(2) Where the applicant for a loan under this Act applies in respect of a family farm or incorporated family farm he shall submit with the application such particulars of the ownership and operation of the farm as the regulations prescribe. 1962-63, c. 66, s. 4 (2). Applicant shall submit particulars of ownership, etc.

**13.**—(1) Before making a loan under this Act, the Corporation shall obtain a report as to the value of the security offered by the applicant from a valuator appointed by the Lieutenant Governor in Council. 1965, c. 52, s. 1. Valuator's report

(2) The land and buildings shall be valued on the basis of their value for agricultural purposes. R.S.O. 1960, c. 198, s. 12 (2). Mode of valuing

Corporation  
shall refuse  
loan where  
land and  
buildings not  
economic  
farm unit

(3) Where the Corporation is of the opinion that the land and buildings upon which security is offered by the applicant for the loan do not constitute an economic farm unit, the Corporation shall refuse the loan. 1962-63, c. 66, s. 5, *part*.

Insurance

(4) The buildings upon the land shall be insured to their full insurable value or for such lesser amount as is acceptable to the Corporation. R.S.O. 1960, c. 198, s. 12 (3).

Insurance  
moneys

(5) Where the Corporation receives insurance moneys as mortgagee, it may apply such insurance moneys on the mortgage debt or for rebuilding, reinstating or repairing the premises or for such other purposes as the Corporation considers proper.

Idem

(6) Where the Corporation applies insurance moneys under subsection 4 for any purpose, the moneys paid by the Corporation shall not be deemed to be a subsequent advance under the mortgage. 1962-63, c. 66, s. 5, *part*.

Extent of  
loan

**14.** Where the Corporation is satisfied that the conditions of this Act and the regulations have been complied with, the Corporation may make a loan to the borrower to the extent of 80 per cent of the value of the security as shown by the valuator's report. R.S.O. 1960, c. 198, s. 13; 1962-63, c. 66, s. 6.

Limitation  
as to loan,

**15.**—(1) No loan shall exceed \$40,000. 1962-63, c. 66, s. 7, *part*; 1964, c. 49, s. 1.

rate of  
interest

(2) Every loan shall bear interest at the rate of 5 per cent per annum.

and security  
therefor

(3) Every loan shall be secured by a first mortgage upon the lands farmed or to be farmed as indicated in the application for the loan.

Qualifications  
of borrower

(4) A borrower shall be,

- (a) a junior farmer or the spouse of a junior farmer, or both of them;
- (b) a partnership having as one of the partners a junior farmer;
- (c) the owner of a family farm; or
- (d) a corporation operating an incorporated family farm where the junior farmer holds shares or other evidence of ownership of assets of the corporation. 1962-63, c. 66, s. 7, *part*.

Holder of  
life interest  
may be  
mortgagor

(5) Where any part of the lands offered as security for a loan is subject to an interest for the life of a person other than the borrower and, in the opinion of the Corporation, such life interest will not affect the farming operation of the lands by the borrower, the person holding the life interest may be joined in the mortgage as a mortgagor in respect of the life interest. 1965, c. 52, s. 2.

**16.** At the time of or subsequent to the making of a loan, the Corporation may accept as collateral security therefor a life insurance policy or an assignment thereof, a chattel mortgage, or any other security that the Corporation considers proper. R.S.O. 1960, c. 198, s. 15.

Collateral  
security

**17.**—(1) Except as hereinafter provided, a loan made under this Act is repayable in annual instalments of principal and interest sufficient to discharge the debt at the end of such period as is agreed upon, but no loan shall be made for more than thirty years. R.S.O. 1960, c. 198, s. 16 (1); 1962-63, c. 66, s. 8 (1).

Loan, how  
repayable

(2) Instalments of principal and interest shall be equal and shall be payable annually not later than a date determined by the Corporation, but a payment of interest only on the moneys advanced may be required on a date before the first date on which principal and interest are payable. 1965, c. 52, s. 3.

Annual  
instalments  
of principal  
and interest

(3) Payments on account of the loan, in addition to those provided for in the mortgage or agreement, may be made at any time.

Payments  
may be  
accelerated

(4) The Corporation may accept a release of the equity of redemption existing by virtue of a mortgage to it and may sell any property that it has thus acquired to any person at such price and upon such terms as it considers proper. R.S.O. 1960, c. 198, s. 16 (3, 4).

Sale of  
property  
acquired  
by release  
of equity  
of  
redemption

(5) The Corporation may grant such extension of time for the payment of principal and interest to any borrower and to any purchaser under an agreement for sale as the Corporation considers advisable and may, at any time at its discretion, consolidate the total indebtedness owing by any mortgagor or purchaser to the Corporation, inclusive of accrued interest and moneys paid for taxes, insurance, fees and disbursements to the date of consolidation, and alter the provisions of the mortgage and the agreement for sale so that the consolidated indebtedness with interest may be repayable in annual instalments for the balance of the term of the mortgage and agreement for sale or for such longer term as the Corporation considers proper. R.S.O. 1960, c. 198, s. 16 (5); 1962-63, c. 66, s. 8 (3).

Consolida-  
tion of  
indebted-  
ness

(6) Where a loan has been made under this Act and the borrower applies for an increase in the loan upon the same security, the Corporation may, if it is satisfied that the conditions of this Act and the regulations have been complied with, make a new loan to the applicant to the extent of 80 per cent of the value of the security as shown by the valuator's report. R.S.O. 1960, c. 198, s. 16 (6); 1962-63, c. 66, s. 8 (4).

Increase  
in loans

**18.** Every mortgage made under this Act shall be made in accordance with *The Short Forms of Mortgages Act*, and may contain such further covenants, provisos and conditions as the

Mortgages,  
how made  
R.S.O. 1970,  
c. 437



Corporation considers proper, and the Corporation has and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act as a mortgagee has under the laws of Ontario. R.S.O. 1960, c. 189, s. 17.

Sale of  
mortgaged  
land

**19.** It shall be a term of a mortgage taken as security for a loan under this Act that, at the option of the Corporation, the mortgage shall immediately become due and payable where,

- (a) the land or any part thereof is sold or otherwise disposed of;
- (b) an agreement is made for the sale of the land or any part thereof;
- (c) the junior farmer in respect of whose application the loan was made ceases to farm on a full-time basis on the land; or
- (d) in the case of a family farm or incorporated family farm or farm operated by a partnership, the junior farmer in respect of whose application the loan was made ceases to comply with the Act and the regulations. 1962-63, c. 66, s. 9, *part*.

Term of  
mortgage

**20.** It shall be a term of a mortgage that the operation of the farm in respect of which a loan is made shall be in accordance with sound farming practices and carried out with accurate records kept of the farm operation and, at the request of the Corporation, that the junior farmer participates in a farm management program. 1962-63, c. 66, s. 9, *part*.

Prepara-  
tion of  
notices,  
mortgages,  
etc.

**21.** All notices, mortgages, discharges or other documents under this Act shall be prepared by the Corporation or by a person designated by the Corporation. R.S.O. 1960, c. 198, s. 19.

Where  
money  
misapplied

**22.** If at any time in the opinion of the board of directors of the Corporation any money advanced under this Act has not been or is not being applied for the purpose for which it was advanced, or is not being carefully and economically expended, or if the security depreciates in value, the Corporation may refuse to make any further advance and call in the whole amount then advanced and all interest thereon and declare the same to be immediately due and payable, whereupon the borrower shall at once repay the same with interest at the rate set forth in the mortgage, and in default of payment the Corporation has the like remedies for recovery of the same as if the time for repayment thereof had fully arrived. R.S.O. 1960, c. 198, s. 20.

Corporation  
to secure  
reports  
as to con-  
ditions  
of securities

**23.** The Corporation from time to time shall secure reports as to the condition of any securities taken by it for loans under this Act and as to the progress and prospects of the borrowers, and for this purpose any governmental agency may co-operate with the

Corporation by rendering assistance of an educational or other nature that appears calculated to facilitate the success of the borrower. R.S.O. 1960, c. 198, s. 21.

**24.**—(1) The Lieutenant Governor in Council may authorize the Treasurer,

- (a) to purchase any debentures, bills or notes of the Corporation; and
- (b) to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council considers expedient.

Sale of Corporation's securities to Province and provincial advances to Corporation authorized

(2) The moneys required for the purposes of subsection 1 shall be paid out of the Consolidated Revenue Fund. R.S.O. 1960, c. 198, s. 22.

Idem

**25.** The Lieutenant Governor in Council may make regulations respecting,

Regulations

- (a) the management, control and administration of the affairs of the Corporation;
- (b) the manner in which applications for loans are to be made and the form thereof;
- (c) the fees and expenses payable by applicants and borrowers under this Act;
- (d) the terms and conditions of loans;
- (e) the information to be furnished to the Corporation in respect of the ownership and operation of any farm;
- (f) the prescribing and use of forms;
- (g) the terms and conditions for the making of bank loans;
- (h) insurance on the life of a borrower;
- (i) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 198, s. 23; 1962-63, c. 66, s. 10.

**26.** This Act shall be administered by the member of the Executive Council to whom it is assigned by the Lieutenant Governor in Council. R.S.O. 1960, c. 198, s. 24.

Administration of Act

**27.** The cost of administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 198, s. 25.

Cost of administration

**28.**—(1) The Lieutenant Governor in Council may, upon such terms as he considers proper, agree to guarantee and may guarantee payment of losses sustained by a chartered bank as a result of loans made to junior farmers for the establishment,

Guarantee of bank loans

development and operation of their farms, in an amount not to exceed 10 per cent of the aggregate principal amount of the bank loans, where,

- (a) the junior farmer has a loan from the Corporation;
- (b) the bank loan was made pursuant to an application by the borrower in the form prescribed by the Corporation, stating the purpose of the bank loan;
- (c) an officer of the bank certifies that he has scrutinized and checked the application for the bank loan with the care required of him by the bank in the conduct of its ordinary business;
- (d) the principal amount of the bank loan at the time of its making, together with the amount owing in respect of other bank loans guaranteed under this Act previously made to the borrower and disclosed in his application or of which the bank had knowledge,
  - (i) where the farm is owned by a junior farmer or his spouse, or both of them, or by a partnership, did not exceed the sum of \$5,000, or
  - (ii) where the farm is a family farm or an incorporated family farm, did not exceed the sum of \$10,000; and
- (e) the bank loan was repayable in full by the terms thereof in not more than ten years and the rate of interest charged by the bank on the loan did not exceed the current rates of interest.

Form of  
guarantee

(2) The form and manner of the guarantee shall be such as the Lieutenant Governor in Council approves, and the guarantee shall be signed by the Treasurer or such other officer or officers as are designated by the Lieutenant Governor in Council, and, upon being so signed, the Province of Ontario is liable for the payment of the loss thereon guaranteed according to the terms of the guarantee.

Payment of  
guarantee

(3) The Lieutenant Governor in Council may make arrangements for supplying the money necessary to fulfill the requirements of any guarantee and to advance the amount necessary for that purpose out of the public funds of the Province of Ontario.

Idem

(4) A claim for loss by a bank in respect of the amount guaranteed shall be made to the Treasurer not sooner than ninety days nor later than one year after the entire amount of the loan becomes due and payable. 1962-63, c. 66, s. 11.

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## CHAPTER 230

### The Jurors Act

#### 1. In this Act,

Interpre-  
tation

- (a) “county” includes a district;
- (b) “county court” includes a district court;
- (c) “county selectors” includes district selectors;
- (d) “local municipality” includes The Municipality of Metropolitan Toronto, but does not include an area municipality as defined by *The Municipality of Metropolitan Toronto Act*;
- (e) “sheriff” includes a coroner, an elisor and every other officer to whom the return of jury process belongs.

R.S.O. 1970,  
c. 295

R.S.O. 1960, c. 199, s. 1.

#### QUALIFICATIONS, EXEMPTIONS AND DISQUALIFICATIONS OF JURORS

**2.—**(1) Subject to section 44, and unless exempted or disqualified, every person twenty-one or more years of age, being a British subject by birth or naturalization and in the possession of his or her natural faculties, and not infirm or decrepit, who or whose wife or husband is assessed upon the last revised assessment roll as owner or tenant in respect of real property of the value of not less than \$600 in cities and \$400 in towns, villages and townships is qualified and liable to serve as a juror on grand and petit juries in the Supreme Court and in all courts of civil or criminal jurisdiction in the county in which he or she resides.

Who  
qualified  
and liable  
to serve

(2) Where property is assessed as the property of two or more persons jointly, they shall be treated as if severally assessed for equal proportions of the property. R.S.O. 1960, c. 199, s. 2.

Joint  
proprietors

**3.—**(1) The following persons are exempt from being returned and from serving as grand or petit jurors, and their names shall not be entered on the rolls prepared and reported by the selectors of jurors:

Who  
exempted  
from  
serving

1. Every person seventy or more years of age.
2. Every member of the Privy Council of Canada or the Executive Council of Ontario.
3. Every member of the Senate, the House of Commons of Canada or the Assembly.



4. The secretaries of the Governor General or the Lieutenant Governor.
5. Every judge.
6. Every sheriff, coroner, jailer and keeper of a house of correction or lock-up.
7. Every sheriff's officer and constable.
8. Every police officer and constable.
9. Every minister, priest or ecclesiastic under any form or profession of religious faith or worship.
10. Every woman who is a vowed member of a religious order and who lives in a convent or other religious community.
11. Every barrister and solicitor and every student-at-law.
12. Every officer of any court of justice.
13. Every physician, surgeon, dental surgeon, pharmaceutical chemist and veterinary surgeon actually practising.
14. Every registered nurse.
15. Every member of the Canadian Armed Forces on full pay.
16. Every pilot and seaman engaged in the pursuit of his calling.
17. Every head of a municipal council.
18. Every editor, reporter and printer of any public newspaper or journal.
19. Every person employed in the actual working of a railway, street railway or public commission carrying on the business of developing, transmitting or distributing electrical power or energy.
20. Every telegraph and telephone operator.
21. Every fire fighter belonging to a fire department or company, who has procured the certificate authorized by section 1 of *The Fire Fighters' Exemption Act*, during the period of his enrolment and continuance in actual duty as such fire fighter; but no fire fighter is exempt from serving as a juror unless the captain or other officer of the fire department or company, at least five days before the time appointed for the selection of jurors, notifies the clerk of the municipality of the names of the fire fighters belonging to his department or company, and residing in the municipality, who are exempt and claims exemption for them.

22. The wife or husband of every person mentioned in paragraphs 5, 6, 7, 8, 11 or 12. R.S.O. 1960, c. 199, s. 3 (1), *amended*.

(2) Every person who is under subpoena or is likely to be called as a witness in a civil or criminal proceeding is exempt from being returned and from serving as a grand or petit juror at any sittings of a court at which such proceeding might be tried, and his name shall not be entered on the rolls prepared and reported by the selectors of jurors for any such sittings, and if entered, shall be deleted therefrom.

Exemption  
where  
person under  
subpoena

(3) Every grand juror and every petit juror who has received fees for attending a sittings of a court is exempt from being returned and from serving as a grand or petit juror for the period of three years next following the commencement of such sittings, and if his name is entered on the rolls prepared and reported by the selectors of jurors for any sittings of a court to be held within such period of three years, his name shall be deleted therefrom. R.S.O. 1960, c. 199, s. 3 (2, 3).

Exemption  
for three  
years after  
service

4.—(1) A woman who is served with a summons and does not desire to serve as a juror shall, within three days after the date of receipt of the summons by her, notify the sheriff in writing in Form 4 of Schedule D that she claims exemption from service as a juror for a period of one year from the date of the notice, and, upon such notice being given to the sheriff, the woman is exempt from service as a juror for the period of one year.

Notice by  
women  
desiring  
exemption

(2) When sending a summons to a woman, the sheriff shall enclose therewith a copy of this section and a copy of the notice in Form 4 of Schedule D. R.S.O. 1960, c. 199, s. 4.

Enclosures  
with  
summons

5. No person convicted of treason, felony, perjury or subornation of perjury, unless he has obtained a free pardon, is qualified to serve as a grand or petit juror. R.S.O. 1960, c. 199, s. 6.

Convicted  
persons  
disqualified

#### COUNTY SELECTIONS

6.—(1) The judge of the county court, every junior judge thereof, the mayor of any city situate in the county, the warden, the treasurer of the county, the treasurer of any such city, and the sheriff or in his absence the deputy sheriff, any three of whom is a quorum, are *ex officio* selectors of jurors from the jurors' rolls in their respective counties, and shall be known as county selectors.

County  
selectors

(2) The judge of the county court, and in his absence a junior judge, is the chairman, and in the absence of both, the county selectors may appoint a chairman *pro tempore*.

Chairman

(3) In case of an equality of votes, the chairman of the meeting has a double or casting vote. R.S.O. 1960, c. 199, s. 7.

Casting vote

York  
selectors

**7.**—(1) Notwithstanding section 6, in the Judicial District of York the judge of the county court, the senior of the junior judges thereof, the chairman of the council of The Municipality of Metropolitan Toronto, the chairman of the Regional Council of The Regional Municipality of York, the financial officer of The Regional Municipality of York, the treasurer of The Municipality of Metropolitan Toronto, and the sheriff, any three of whom constitute a quorum, are *ex officio* the selectors of jurors from the jurors' rolls in the county and shall be known as the county selectors.

Selectors  
for Metro-  
politan  
Toronto

(2) The judge of the county court or any junior judge designated by the judge except the senior junior judge, the chairman of the council of The Municipality of Metropolitan Toronto or a member of the Metropolitan Council designated by the chairman, the sheriff or a deputy sheriff designated by the sheriff, and the treasurer of The Municipality of Metropolitan Toronto or the deputy treasurer of The Municipality of Metropolitan Toronto if designated by the treasurer, shall attend when the selection is being made for The Municipality of Metropolitan Toronto.

Selectors  
for Regional  
Municipality  
of York

(3) The senior of the junior judges of the county court or any other junior judge designated by that judge, the chairman of the Regional Council or a member of the Regional Council designated by the chairman, the sheriff or a deputy sheriff designated by the sheriff, and the financial officer or deputy financial officer if designated by the financial officer, shall attend when the selection is being made from The Regional Municipality of York.

Chairman of  
the selectors  
for Metro-  
politan  
Toronto

(4) The senior judge or the junior judge designated by him, as the case may be, is the chairman of the section of county selectors for The Municipality of Metropolitan Toronto, and if neither of such judges is present, the members of that section may appoint from among themselves a chairman *pro tempore*.

Chairman of  
selectors  
for Regional  
Municipality  
of York

(5) The senior of the junior judges or the junior judge designated by him, as the case may be, is the chairman of the section of county selectors for The Regional Municipality of York, and if neither of such judges is present, the members of that section may appoint from among themselves a chairman *pro tempore*.

Casting  
vote

(6) In case of an equality of votes, the chairman of the meeting has a double or casting vote. R.S.O. 1960, c. 199, s. 8, *amended*.

When  
county  
clerk or clerk  
of county  
court a  
selector

**8.** Where the county treasurer is a practising barrister or solicitor, he is disqualified from acting as a county selector, and the clerk of the county council or, if he is a practising barrister or solicitor, the clerk of the county court is a county selector in the stead of the county treasurer. R.S.O. 1960, c. 199, s. 9.

Clerk of  
peace to  
attend  
meetings of  
selectors

**9.** The clerk of the peace shall attend all meetings of the county selectors, and shall enter their proceedings and resolutions in a book kept for that purpose, but he shall have no voice in the

selection of jurors, and shall not advise or express an opinion whether any name ought to be placed upon or omitted from the list of jurors. R.S.O. 1960, c. 199, s. 10.

**10.** The county selectors shall assemble annually at the office of the clerk of the peace or at the court house on the 15th day of September. R.S.O. 1960, c. 199, s. 11.

Annual meeting of selectors

**11.** The county selectors shall at such meeting by resolution first determine and declare the number of grand and petit jurors respectively that will be required as jury panels for service at the courts during the ensuing year, and shall fix the total number of grand and petit jurors for the Supreme Court and for the inferior courts which the local municipalites shall return at three times the number declared by the resolution to be required. R.S.O. 1960, c. 199, s. 12.

Determining number of jurors for the year

**12.**—(1) The county selectors shall then by resolution determine the number of grand and petit jurors for the Supreme Court and for the inferior courts to be returned for each local municipality, and the number of persons on the voters' list of each municipality, marked as qualified to serve on juries, shall form an approximate basis for determining the number of jurors to be returned by each local municipality, and the clerk of the peace shall produce for the use of the county selectors the voters' lists delivered to him by the clerks of the local municipalities under *The Voters' Lists Act*, or certified copies of such lists.

Determining number of jurors from each municipality

R.S.O. 1970, c. 485

(2) For the purposes of subsection 1, the voters' list for The Municipality of Metropolitan Toronto is the voters' list of each of the area municipalities in The Municipality of Metropolitan Toronto. R.S.O. 1960, c. 199, s. 13.

Voters' list for Metropolitan Toronto

**13.**—(1) The county selectors shall also at such meeting by resolution determine the number of petit jurors to be drafted and returned to any sittings of the Supreme Court, the court of general sessions of the peace, and the county court for the current or ensuing year.

Determining number of petit jurors

(2) The clerk of the peace shall forthwith transmit to the office of the Registrar of the Supreme Court and to the clerk of the county court a certified copy of such resolution, and such copies shall be filed in such offices. R.S.O. 1960, c. 199, s. 14.

Copies of resolution to be transmitted and filed

**14.** The county selectors may by resolution amend any resolution passed under sections 10 to 13 and either increase or decrease the number of jurors to be selected and returned by the local municipalities, the number to be selected by the county selectors, or the number of petit jurors to be drafted and returned to any sittings of the Supreme Court, the court of general sessions of the peace, or the county court, and in such case due notice

Power to amend resolutions



thereof shall be given by the clerk of the peace to the persons entitled to notice of the original resolution. R.S.O. 1960, c. 199, s. 15.

Clerk of the peace to notify clerks of local municipalities

**15.** The clerk of the peace shall, within five days after the meeting of the county selectors, notify in writing the clerk of each local municipality of the number of grand and petit jurors respectively required to be returned from the municipality. R.S.O. 1960, c. 199, s. 16.

SELECTION AND DISTRIBUTION OF JURORS FROM THE  
ASSESSMENT ROLL

Local selectors

**16.**—(1) Subject to subsection 2, the head of the council, the clerk and such assessors as are designated by the assessment commissioner, of every local municipality, any two of whom are a quorum, are *ex officio* the local selectors of jurors for the municipality. R.S.O. 1960, c. 199, s. 17 (1); 1966, c. 74, s. 1, *amended*.

Local selectors for Metropolitan Toronto

(2) The local selectors for The Municipality of Metropolitan Toronto consist of the chairman of the Metropolitan Council or a member thereof designated by him, the clerk and deputy clerk of the Metropolitan Corporation, the assessment commissioner of the Metropolitan Corporation and such assessors as are designated by the assessment commissioner, and any two of the local selectors constitute a quorum. R.S.O. 1960, c. 199, s. 17 (2), *amended*.

When and where the selection to be made

**17.**—(1) The local selectors shall meet annually on the 10th day of October at the place where the meetings of the municipal council are usually held or at such other place in the municipality as is appointed by the head of the council, or during his absence, or a vacancy in the office, by the clerk, for the purpose of selecting from the assessment roll the names of the persons qualified and liable to serve as jurors.

Principles by which selectors are to be governed

(2) The local selectors shall proceed from day to day until the selection is completed, and shall select such persons as in their opinion, or in the opinion of a majority of them, are, from the integrity of their characters, the soundness of their judgment and the extent of their information, the most discreet and competent for the performance of the duties of jurors. R.S.O. 1960, c. 199, s. 18 (1, 2).

Assessment rolls to be produced

(3) The clerk, assessment commissioner or assessor, or such other officer or person who has the actual charge or custody of the assessment roll for the year and the proper voters' list shall bring them to such meeting. R.S.O. 1960, c. 199, s. 18 (3); 1966, c. 74, s. 2, *amended*.

(4) The local selectors, before entering upon the performance of their duties, shall severally make and subscribe the following oath: Oath of selectors

I, . . . . ., do swear (*or affirm, as the case may be*) that I will truly, faithfully and impartially, without fear, favour or affection, and to the best of my knowledge and ability, perform the duty of a local selector of jurors, and will select from the proper lists the requisite number of the most fit and proper persons to serve as jurors for the year 19. . . . .

Sworn, etc.

(Signed) . . . . .

(5) For the purposes of this section, the assessment roll of The Municipality of Metropolitan Toronto is the assessment roll of each of the area municipalities in The Municipality of Metropolitan Toronto. Assessment rolls for Metro-politan Toronto  
R.S.O. 1960, c. 199, s. 18 (4, 5).

**18.**—(1) The local selectors shall,

- (a) from the certified voters' list prepared for the municipality in the year; or
  - (b) if the list has not been certified, then from the voters' list published by the clerk of the municipality in the year; or
  - (c) if the list has not been published, then from the assessment roll of the municipality returned in the year; or
  - (d) if the assessment roll has not been returned, then from the last revised assessment roll of the municipality,

Manner in which local selectors to make list from which to select jurors

write down twice as many of the names of the persons appearing by the assessment roll to be possessed of the requisite property qualification and otherwise qualified to serve as jurors, as have been required by the county selectors to be selected and returned from the municipality, and the proper assessment roll shall in all cases be referred to by the local selectors for the purpose of determining who are exempt or disqualified from acting as jurors, and for such other purposes as are necessary in the discharge of their duty.

(2) The local selectors shall from year to year in making the selection proceed in alphabetical order, and shall write down consecutively in like order the names of all those persons qualified to serve as jurors and not exempt by law, until twice the total number required to be returned from the municipality is obtained, and at each subsequent annual meeting the local selectors shall begin at the letter next to that at which they left off in the next preceding year, and so on until they have gone through all the remaining letters of the alphabet, when they shall begin again with the letter A. Selection to be made in alphabetical order

(3) Where the local selectors obtain the names of a sufficient number of qualified persons after they have entered upon, but before they have exhausted the entire number of those qualified under any one letter, they shall at the next annual selection commence at the beginning of such letter, but shall not select from Procedure when number qualified under one letter not exhausted

the names of any persons that were written down and selected from and returned in the next preceding year.

Where number of names of duly qualified persons not sufficient

(4) Where, after discarding the names of those exempt or incapacitated, the number of qualified persons required by the local selectors to be selected from the municipality cannot be obtained, the local selectors shall place on the list the names only of such persons in the municipality as are qualified, and the number of jurors required shall be selected from such list, and the clerk shall notify the county selectors of the facts, and they shall at their next and subsequent selections have regard thereto.

Local selectors to select two-thirds of names on list

(5) The local selectors shall select at least two-thirds of the persons whose names they have so written down, being those who in their opinion are the best qualified to serve as jurors, and shall place a number opposite each name so selected.

Jury panel not affected

(6) The inability of the local selectors, after discarding the names of those exempt or incapacitated, to find twice the number of persons having the proper qualification that have been required by the county selectors to be selected and returned, or to find the number required by the county selectors to be selected and returned does not invalidate or render irregular the selection by them of the jury list or panel, or render it liable to challenge.

Application of ss. 12 (2); 17 (5)

(7) Subsection 2 of section 12 and subsection 5 of section 17 apply *mutatis mutandis* to this section. R.S.O. 1960, c. 199, s. 19.

When selectors to question assessment roll

**19.** It is not necessary for the local selectors to refer to any name on the assessment roll that has not the letter J opposite it in the voters' list, unless they suspect that names are not properly marked. R.S.O. 1960, c. 199, s. 20.

Casting vote

**20.** In case of an equality of votes as to any question, the head of the council, or, in the case of his absence or a vacancy in the office, the clerk, has a double or casting vote. R.S.O. 1960, c. 199, s. 21.

Jurors to be selected by ballot

**21.**—(1) The local selectors shall prepare as many ballot papers of uniform and convenient size as there are names selected, and the ballot papers shall be numbered to correspond with the numbers opposite to the names of the two-thirds selected, and they shall then proceed to select by ballot the number of jurors required by the county selectors.

Manner of balloting

(2) The manner of balloting is as follows:

1. The local selectors shall place the ballot papers, correctly numbered, in a box or urn, and shall cause it to be shaken so as sufficiently to mix the ballot papers, and shall then openly draw from the box or urn indiscriminately one of the ballot papers, and declare openly the number on such ballot paper, whereupon the clerk, or

one of the local selectors, shall immediately declare aloud the name of the person opposite whose name the corresponding number is placed on the list.

2. The name and addition of the person who has been so selected shall then be written down, and the local selectors shall proceed in like manner until the necessary number has been completed. R.S.O. 1960, c. 199, s. 22.

**22.**—(1) When the local selectors have completed the selection, they shall, for the purpose of the report thereof, distribute the names of the persons so selected into four divisions, the first consisting of persons to serve as grand jurors in the Supreme Court, the second of persons to serve as grand jurors in the inferior courts, the third of persons to serve as petit jurors in the Supreme Court, and the fourth of persons to serve as petit jurors in the inferior courts, and shall make such distribution according to the best of their judgment with a view to the relative competency of the persons to discharge the duties required of them respectively.

List to be distributed into four divisions

(2) The distribution among the four divisions shall be made so that each division will contain the number of names required by the county selectors to be returned for such division. R.S.O. 1960, c. 199, s. 23.

Idem

**23.**—(1) The local selectors shall make out in duplicate under their hands and seals, or under the hands and seals of such of them as perform the duty, a report in the form of Schedule A of their selection, ballot and distribution in which they shall set forth in alphabetical order the names of the persons selected.

Selectors to make out a duplicate report, etc.

(2) There shall be attached to each duplicate a declaration, subscribed by them, stating, each for himself, that he has made the selection, ballot and distribution to the best of his judgment and information pursuant to this Act, and without fear, favour or affection, gain, reward or hope thereof, other than such fees as he is lawfully entitled to receive under this Act.

Declaration to be attached to the report

(3) One of such duplicates shall, on or before the 25th day of October, be deposited by the local selectors with the clerk of the peace and the other with the clerk of the municipality, and they shall be kept on file for the use and information of all who have lawful occasion to examine or make use of them.

Reports to be deposited and kept on file

(4) In case of the loss or destruction of a duplicate report, the officer in whose office it was when lost or destroyed shall, as soon as reasonably may be, procure from the officer to whom the legal custody of the other duplicate report belongs, a certified copy thereof, and shall file it in his office, and it shall thenceforth be taken, received and acted upon in all respects as if it were the duplicate report lost or destroyed. R.S.O. 1960, c. 199, s. 24.

In case of loss, a copy of the duplicate report to be filed



Record to be kept by clerk of municipality

**24.** The clerk shall enter in a book to be kept for that purpose the dates of the meetings of the local selectors, the persons present thereat and taking part therein, and the letters of the alphabet from which the selections are from year to year made, and, when the names in any letter have not been exhausted in any year, the clerk shall enter in the book the names and additions of all persons whose names begin with the last-mentioned letter that were written down and selected from and returned during the then current year. R.S.O. 1960, c. 199, s. 25.

#### PREPARATION OF JURORS' BOOKS

Clerk of the peace to prepare jurors' books

**25.** The clerk of the peace shall in each year procure a book called the jurors' book, and shall keep it as nearly as may be in the form of Schedule B, and according to the directions contained in the notes to the Schedule. R.S.O. 1960, c. 199, s. 26.

Contents of jurors' book

**26.** From the reports of the local selectors made to the clerk of the peace for such year, or from such of them as have been made on or before the 25th day of October, the clerk of the peace shall, between the 25th day of October and the 10th day of November in such year, transcribe into the jurors' book, in alphabetical order, the names and additions of all persons selected to serve as grand and petit jurors, as they are set forth and distributed in such reports. R.S.O. 1960, c. 199, s. 27.

Jurors' books to contain four rolls of jurors

**27.** The names shall be transcribed into the book in four rolls, the first to be called "Roll of Grand Jurors to serve in the Supreme Court", the second, "Roll of Grand Jurors to serve in the Inferior Courts of Criminal Jurisdiction", the third, "Roll of Petit Jurors to serve in the Supreme Court", and the fourth, "Roll of Petit Jurors to serve in the Inferior Courts of Criminal and Civil Jurisdiction". R.S.O. 1960, c. 199, s. 28.

Names and addition of jurors

**28.** The names and additions of all persons selected, ballotted and reported to serve as jurors shall be transcribed in each of the rolls. R.S.O. 1960, c. 199, s. 29.

#### DIVISION OF JURORS' ROLLS

Division of jurors rolls according to municipalities

**29.** Each jurors' roll shall be divided into local municipalities, and the names in each municipality shall be arranged alphabetically, and all the names in each roll shall be numbered consecutively. R.S.O. 1960, c. 199, s. 30.

How the rolls are to be certified

**30.** A certificate of the clerk of the peace shall be attached to each roll certifying that he has carefully compared it with the reports made by the local selectors of jurors for the year, as such reports were on file in his office on the 25th day of October in such year, and that it contains a true and correct transcript of the names and additions of all persons so reported to serve as jurors. R.S.O. 1960, c. 199, s. 31.

**31.**—(1) As soon as he has completed the jurors' book, but not later than the 12th day of November in each year, unless the judge of the county court, for such reasons as he considers sufficient, extends the time for preparing the jurors' book, the clerk of the peace shall appear before the judge in his chambers and deliver to the judge the jurors' book so prepared by him together with the jurors' books for so many of the preceding years as are required for proceeding with the preparation of the jurors' lists as hereinafter directed, and shall thereupon make oath before the judge,

Presenting and certifying jurors' rolls

- (a) that he has carefully compared the jurors' rolls in the first-mentioned jurors' book with the reports made by the local selectors, as they were on file in his office on the 25th day of October next preceding, and that to the best of his knowledge and belief such jurors' rolls contain a true and correct transcript of the names and additions of all persons reported by the local selectors; and
- (b) that the jurors' books secondly above-mentioned are those on file in his office for the years to which they purport respectively to relate, and that all entries therein were truly and faithfully made, without fraud or collusion of any kind, and according to the very truth.

(2) If the clerk of the peace has not been in office during all the time that the jurors' books have been on file, he shall make oath that all entries made during the time that he has been in office have been truly and faithfully made without fraud or collusion of any kind, and according to the very truth, and that he verily believes that all other entries prior to his appointment were truly and faithfully made. R.S.O. 1960, c. 199, s. 32.

Where clerk of peace has not been in office during preceding years

**32.** On the first occasion of bringing the jurors' book before the judge, there being no jurors' book for any preceding year, the oath to be made by the clerk of the peace shall be modified accordingly. R.S.O. 1960, c. 199, s. 33.

Modification of oath

**33.** If the clerk of the peace is unable to make the oath required by subsection 2 of section 31 as to the entries made in any of such jurors' books prior to the time of such book coming into his custody, or has reason to suspect that any original entry in such book has, after its original completion, been erased, mutilated or altered, he shall in lieu of that part of the oath make oath that, as to such entry, he is unable to speak, but that from circumstances that have come to his knowledge, or of which he has been informed, he has reason to doubt the correctness thereof, or has reason to suspect that an original entry has been erased, mutilated or altered. R.S.O. 1960, c. 199, s. 34.

If the clerk of the peace suspects previous errors or fraud, he is to state the same

**34.**—(1) Where the clerk of the peace has made an affidavit in the terms of section 33, the judge shall examine and inquire by the

Inquiry as to error or fraud

oath of such persons as are informed thereof, into the supposed incorrect entries, erasures, mutilations or alterations, their nature and extent, and by whom, when and for what purpose they were made and shall report the same to the Minister of Justice and Attorney General, and shall cause the incorrect entries, erasures, mutilations or alterations to be rectified, and the books restored to their original state as nearly as may be according to the best information he has been able to obtain of or concerning the same.

Powers of  
judge  
R.S.O. 1970,  
c. 379

(2) For the purposes of subsection 1, the judge possesses all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 199, s. 35, *amended*.

Certifying  
jurors'  
books

**35.** The judge shall thereupon certify under his hand and seal in each of such books, the receipt thereof and the oath upon which the same has been received, and such books shall be deposited with the clerk of the peace and are the jurors' rolls from which the selection of jurors shall be made as hereinafter provided. R.S.O. 1960, c. 199, s. 36.

Meeting of  
county  
selectors  
and selection  
of lists

**36.**—(1) The county selectors shall meet at the court house or in the judge's chambers on a day to be fixed by the chairman, not earlier than the 12th day of November and not later than the 15th day of December in each year, at 10 o'clock in the forenoon, to proceed with the selection of jurors from the jurors' rolls prepared under section 27, and shall proceed as far as practicable from day to day until the selection is completed.

Selection to  
be com-  
pleted  
before end  
of year

(2) The county selectors shall so arrange and proceed that the selection of jurors by them and the preparation of the jury lists shall be completed and the lists duly certified and filed in the office of the clerk of the peace before the 31st day of December in the same year.

Oath of  
selectors

(3) Before entering upon the performance of their duties, the county selectors shall severally take and subscribe the following oath:

I, . . . . ., do swear (*or affirm as the case may be*) that I will truly, faithfully and impartially, without fear, favour or affection, and to the best of my knowledge and ability, perform the duty of a county selector, and will select from the proper rolls the requisite number of the most fit and proper persons to serve as jurors for the year 19. . . . .

Sworn, etc.

(Signed) . . . . .

Idem

(4) An entry of such oaths shall forthwith be made in the minute book of the county selectors. R.S.O. 1960, c. 199, s. 37.

Selection of  
jurors from  
jurors' rolls

**37.**—(1) The county selectors shall then proceed to select from the jurors' rolls the names of the requisite number of persons to serve as jurors for such year, being those persons who, in the opinion of the selectors or of a majority of them, are, from the integrity of their character, the soundness of their judgment, and the extent of their information the most discreet and competent



for the performance of the duties of jurors, and in making the selection the county selectors may, if they think fit, select a proportion of the names for each jury list from each local municipality.

(2) The county selectors shall first select the grand jury list for the Supreme Court, and when they have decided upon the selection of any person, his name and addition shall be forthwith inserted by the clerk of the peace in the minute book.

Clerk of peace to enter names of jurors selected

(3) The names of the persons so selected, alphabetically arranged, with their places of residence and additions, shall then be copied by the clerk of the peace into the jurors' book with the title "The Grand Jury List for the Supreme Court", and shall be numbered consecutively, and also with the number of each name on the roll of grand jurors for the Supreme Court.

Names selected to be inserted in list

(4) The clerk of the peace shall thereupon mark each of such names on the last-mentioned roll as transferred to the jury list by a reference to the number belonging to it on that list.

Clerk of the peace to enter names in the book

(5) The list of names so selected and transferred is the grand jury list for the Supreme Court for the year next after that in which it has been so prepared. R.S.O. 1960, c. 199, s. 38.

List so made to be the grand jury list for S.C.O.

**38.** After the grand jury list for the Supreme Court has been completed, the required number of names of persons to serve as grand jurors in the inferior courts shall, in like manner, be selected and transferred to a similar list in the same book, with the title "The Grand Jury List for the Inferior Courts" for such next year, and the last-mentioned list is the grand jury list for the inferior courts for the year next after that in which it has been so prepared. R.S.O. 1960, c. 199, s. 39.

Grand jury list for inferior courts to be made in like manner

**39.** The required number of names shall in like manner be selected and transferred from the roll of jurors to serve as petit jurors in the Supreme Court to the petit jury list for the Supreme Court for such year, and lastly from the roll of jurors to serve as petit jurors in the inferior courts to the petit jury list for the inferior courts for such year. R.S.O. 1960, c. 199, s. 40.

Lists of petit jurors of Supreme Court and inferior courts

**40.** The number to be selected from the jurors' rolls for a jury list shall be the number of grand jurors that the county selectors have determined to be requisite for the year, and of petit jurors for the Supreme Court and inferior courts respectively the number theretofore determined by the county selectors to be requisite as the panels for the year, with one-fourth the number thereof added thereto. R.S.O. 1960, c. 199, s. 41.

Number to be selected for jury list

**41.** The county selectors may prepare any of the jury lists before the previous lists, or any of them, have been transferred to the jurors' book. R.S.O. 1960, c. 199, s. 42.

Selection may be made before transfer to jurors' books



The chairman and clerk of the peace to certify books

**42.** As soon as the four jury lists have been so prepared; the chairman and the clerk of the peace shall certify under their hands in the jurors' book, immediately after each of such jury lists, that it was prepared from the proper roll, as the law directs, and the date of its preparation, and the jurors' book, with the jury lists so certified, shall then be filed in the office of the clerk of the peace. R.S.O. 1960, c. 199, s. 43.

Enlarging jury lists

**43.**—(1) Notwithstanding any other provision of this Act, where in special circumstances the Chief Justice of the High Court is satisfied that a jury list prepared in the manner provided by this Act will not provide a sufficient number of jurors for the purposes of any sittings of any court for which such jury list was prepared, he may order the sheriff to enlarge such jury list by adding thereto, in the manner hereinafter provided, such number of additional names as the Chief Justice considers necessary.

Duties of sheriff as to selecting additional number of jurors

(2) Upon receipt of such an order, the sheriff shall forthwith attend at the office of the clerk of the peace and select the additional number of jurors required from the names not marked as transferred to a jury list on the proper jurors' roll.

If not a sufficient number on jurors' roll

(3) Where there is not a sufficient number of names upon the proper jurors' roll, the sheriff shall select so many of the additional number of jurors as are required from the names not marked as transferred to a jury list on any of the jurors' rolls in the current jurors' book or on any of the jurors' rolls in the jurors' book of the nearest or any preceding year for which there is a jurors' book or a certified copy thereof in existence.

Duties of clerk of the peace

(4) The clerk of the peace shall thereupon transfer the names selected by the sheriff to the jury list and shall mark each of such names on the appropriate jurors' roll as transferred to the jury list by a reference to the jury list to which it has been transferred and the number belonging to it on that list.

Sheriff and clerk of the peace to certify enlarged jury list

(5) As soon as the additional names have been added to the jury list, the sheriff and the clerk of the peace shall certify under their hands in the jurors' book, immediately after such additional names, that the jury list has been enlarged pursuant to this section, and the jurors' book with the jury list so enlarged and certified shall then be returned to the custody of the clerk of the peace. 1962-63, c. 67, s. 1.

#### DISTRICT SELECTIONS

District selectors

**44.**—(1) In a provisional judicial district where there are two judges of the district court, the judges and the sheriff, and where there is but one judge, the judge, the clerk of the district court and the sheriff, any two of whom are a quorum, are the district selectors of jurors.

(2) Except as herein otherwise provided, the district selectors of jurors shall perform the like duties and possess the like powers as county selectors of jurors, and the sheriff and clerk of the peace of the district shall respectively perform the like duties and possess the like powers with respect to the selection, empanelling and summoning of jurors and otherwise as the sheriff and the clerk of the peace of a county.

To have powers and duties of county selectors

(3) The provisions of this Act with regard to the selection and distribution of jurors by the local selectors of jurors apply to every local municipality in a provisional judicial district.

Local selectors

(4) After the district selectors at the meeting to be held as provided in section 10 have determined and declared the number of grand and petit jurors respectively that will be required as jury panels for service at the courts during the ensuing year, they shall by resolution fix the total number of grand and petit jurors for the Supreme Court, and for the inferior courts, that shall be returned by the local municipalities, and the total number that shall be selected by the district selectors from territory without municipal organization.

Number of grand and petit jurors to be returned

(5) The district selectors shall then proceed to select, from among the persons twenty-one or more years of age resident in territory without municipal organization, a list of persons to serve as grand and petit jurors respectively with those to be selected from the local municipalities.

Selection by district selectors

(6) No person shall be selected to serve as a juror from territory without municipal organization who is exempted or disqualified under this Act.

Non-eligibility

(7) No property qualification is required in the case of a person selected from territory without municipal organization.

Property qualification

(8) In making up any list of jurors from territory without municipal organization, the district selectors may have recourse to the last voters' list prepared and certified for such territory and to any assessment or collector's roll prepared for school purposes, and may proceed upon any information furnished by such list or roll or possessed or acquired by them in any other manner, but the persons selected shall be such as from the integrity of their character, the soundness of their judgment and the extent of their information are, in the opinion of the district selectors, the most discreet and competent for the performance of the duties of jurors. R.S.O. 1960, c. 199, s. 44.

Use of voters' list etc.

#### JURY PROCESS

**45.**—(1) The judges of the Supreme Court, or one or more of them, for the holding of any sittings of the Supreme Court, and the judge of the county court, for the holding of any sittings of the county court or of the court of general sessions of the peace, may

Judges to issue precepts to the sheriffs

respectively issue precepts in Form 1 of Schedule D to the sheriff for the return of a proper number of grand jurors for such sittings, and of such number of petit jurors as county selectors have determined as the number to be drafted and returned or such greater or lesser number as in their or his opinion is required. R.S.O. 1960, c. 199, s. 45 (1).

Number of  
grand jurors

(2) The precepts for the return of grand jurors shall command the return, and the panel shall consist of seven grand jurors. R.S.O. 1960, c. 199, s. 45 (2); 1955, c. 37, s. 8 (1).

Cancellation  
of  
precept for  
grand jury

(3) Where, after the issue of a precept for the return of grand jurors, the clerk of the peace informs a judge authorized under subsection 1 to issue the precept that there are no criminal prosecutions at the sittings for which the precept was issued, the judge may,

(a) cancel the precept; or

(b) if summonses have been served on the persons drafted to serve on the grand jury, direct the sheriff to notify each person so summoned, in the manner prescribed by subsection 5 of section 66. R.S.O. 1960, c. 199, s. 45 (3).

Inspection  
of  
institutions

**46.**—(1) The judge presiding at a jury sittings of the Supreme Court and at a sittings of the court of general sessions of the peace shall instruct the grand jury that it may inspect all or any of the institutions in the county or district that are maintained in whole or in part by public moneys, and every grand jury that makes such an inspection shall prepare a report or presentment indicating the conditions found to be existing in each of the institutions inspected, but where such an inspection has been conducted within six months prior to the date of the commencement of such sittings, no inspection shall be made without the specific consent of the judge.

Amount of  
time to be  
spent in  
inspection

(2) The time that may be devoted by a grand jury to the inspection of institutions is subject to the control and direction of the presiding judge. R.S.O. 1960, c. 199, s. 46.

Postponement  
of  
summons to  
jurors

**47.**—(1) The Crown attorney may direct the sheriff to summon the petit jury for any of the sittings of the Supreme Court, county court, or court of general sessions of the peace on any day after the day upon which the court is scheduled to open at such hour as he determines where in the circumstances he considers it advisable to do so, and such direction shall be given in writing at least six days before the day upon which the sittings is to be commenced.

Sheriff's  
notice to  
petit jurors

(2) Where the sheriff has received such a direction from the Crown attorney and the jurors have already been summoned, he shall forthwith by registered letter in Form 2 of Schedule D notify



each person summoned to serve as a juror to attend the court on the day and at the hour mentioned in the direction and that his attendance is not required on the day named in the summons, and in case any person, after receiving the notice, attends the court on a day prior to that mentioned in the notice he is not entitled to receive any fees or mileage for such attendance.

(3) Where, after the giving of such notice, a juror attends the sittings of the court on the opening day and the sheriff is satisfied that the notice was not received prior to such attendance and that the juror attended in good faith, believing such attendance to be necessary, the sheriff shall allow the juror his fees and mileage allowance. R.S.O. 1960, c. 199, s. 47.

Where juror attends owing to non-receipt of notice

**48.**—(1) The judge of the county court, if after the issue of the precept it appears to him expedient, may at any time prior to the day appointed for the sittings of the Supreme Court, by order under his hand and seal, and the judge assigned to hold the sittings or the presiding judge may, at any time before or during the sittings of such court, by order under his hand and seal, direct the sheriff to return an additional number of petit jurors.

Judge of county court may order additional petit jurors for Supreme Court sittings

(2) The judge of the county court, after the issue of the precept, at any time prior to or during the sittings of the county court or court of general sessions of the peace, by order under his hand and seal, may direct the sheriff to return an additional number of petit jurors.

Additional petit jurors for inferior courts

(3) The sheriff, upon the receipt of any such order, shall forthwith draft such additional number of jurors in the manner provided by this Act, and shall add their names to the panel, and shall forthwith thereafter summon them. R.S.O. 1960, c. 199, s. 48.

Duty of sheriff as to drafting additional number of jurors

**49.**—(1) Any number of jurors summoned for a jury sittings of the Supreme Court or of the county court may, until resumed by direction of a judge, be released from service or further service, as the case may be,

Release of jurors by judge

- (a) at any time before the sittings by a judge authorized to issue a precept for the sittings of the court; or
- (b) at any time during the sittings by the judge presiding at the sittings.

(2) Where a number of jurors are to be released from service before the sittings under this section, the judge shall so advise the sheriff who, in the presence of the clerk of the peace and a justice of the peace, shall place all the cards upon which the names of the jurors are written in the box provided for that purpose and shall cause it to be thoroughly shaken and shall then withdraw from the box, one at a time, the number of cards equivalent to the number

Selection of jurors to be released before sittings



of jurors who are to be released, and the sheriff shall notify in writing the persons whose names appear on the cards that they are released. R.S.O. 1960, c. 199, s. 49 (1, 2).

Remunera-  
tion of  
justice of  
the peace

(3) For each selection of jurors to be released from service before the sittings under this section, the sheriff shall pay the justice of the peace in attendance the sum of \$5. 1968, c. 60, s. 1.

Release  
of jurors  
during  
sittings

(4) The judge presiding at the sittings may release such jurors as, in his opinion, will not be immediately required, and the release may be for the remainder of the sittings or until the judge directs that they be summoned to reattend. 1967, c. 42, s. 2 (1).

Trial of per-  
son charged  
with  
indictable  
offence

(5) Where jurors have been released under this section, the trial of any person charged with an indictable offence shall not be commenced at the sittings of the court unless such jurors or so many of them as the judge directs have been summoned to reattend at such sittings on or before the date upon which any such trial is commenced, or unless a new panel of jurors has been summoned to attend such sittings returnable on or before such date. R.S.O. 1960, c. 199, s. 49 (5); 1967, c. 42, s. 2 (2).

Fees

(6) Where jurors are released under this section, they are not entitled to receive the fees provided by this Act during the period of release. R.S.O. 1960, c. 199, s. 49 (6).

Precepts to  
be sent to  
sheriffs

**50.** The proper officer in the office of the Registrar of the Supreme Court at Toronto, shall procure the precepts for the return of panels of grand and petit jurors required for the sittings of the Supreme Court, and transmit them to the sheriffs as soon as conveniently may be after the day has been appointed for the sittings for which the jurors are required. R.S.O. 1960, c. 199, s. 50.

When same  
panels for  
general  
sessions and  
county  
courts

**51.** Where the same day is appointed for holding the court of general sessions of the peace and the sittings of the county court, the sheriff may return the same panel to the precepts for the panels of petit jurors. R.S.O. 1960, c. 199, s. 51.

Two or  
more sets  
of petit  
jurors

**52.—**(1) Where a judge of the Supreme Court considers it necessary to have two or more sets of petit jurors to serve at any sittings of the Supreme Court, he may direct the sheriff to return such number of petit jurors as he thinks fit, not exceeding,

(a) in the Judicial District of York, 800;

(b) in the County of Wentworth, 350;

(c) in any other county, 225, and

(d) in The Regional Municipality of Ottawa-Carleton, 350,

and the judge shall fix and direct the number of sets and the day for which each set shall be summoned. R.S.O. 1960, c. 199, s. 52 (1); 1961-62, c. 66, s. 1; 1968-69, c. 55, s. 1.

(2) The sheriff shall divide such jurors into as many sets as are directed, and shall in the summons to every juror specify at what time his attendance will be required.

Sheriff to divide jurors into sets

(3) Each set shall for all purposes be deemed a separate panel. R.S.O. 1960, c. 199, s. 52 (2, 3).

Each set a separate panel

**53.** Subject to this Act, the Supreme Court and the judges thereof have the same power and authority as heretofore in issuing any precept, or in making any award or order, orally or otherwise, for the return of a jury for the trial of any issue before the court, or for amending or enlarging the panel of jurors returned for the trial of any such issue, and the return to any precept, award or order shall be made in the manner heretofore used and accustomed, and the jurors shall, as heretofore, be returned from the body of the county, and shall be qualified according to this Act. R.S.O. 1960, c. 199, s. 53.

The Supreme Court may issue precepts as heretofore

**54.** The provisions of this Act respecting the issue of precepts for the return of a panel of grand jurors for the sittings of the Supreme Court, as well as for the execution and return of the precepts, with all things touching the same, shall in all particulars be observed and followed with respect to the sittings of the court of general sessions of the peace. R.S.O. 1960, c. 199, s. 54.

The directions for precepts, at sittings of Supreme Court to apply to general sessions

**55.** The provisions of this Act respecting the issue of precepts for the return of a general panel of petit jurors for the sittings of the Supreme Court, as well as for the execution and return of the precepts, with all things touching the same, shall be observed and followed in all particulars with respect to the sittings of the several county courts. R.S.O. 1960, c. 199, s. 55.

County courts

#### DRAFTING PANELS FROM JURY LISTS

**56.** Every sheriff to whom a precept for the return of jurors is directed shall, to such precept, return a panel of the names of the jurors contained in the proper jury list, whose names shall be drafted from such list in the manner hereinafter mentioned. R.S.O. 1960, c. 199, s. 56.

How sheriffs to draft panels of jurors

**57.** Where there is no jurors' book for the year or certified copy thereof in existence, the sheriff may return a panel of jurors drafted from the proper jury list in the jurors' book of the nearest preceding year for which there is a jurors' book or certified copy thereof in existence. R.S.O. 1960, c. 199, s. 57.

If no jurors' book for the year

**58.** Where there are no jurors, or not a sufficient number upon the jury list, the sheriff may return to the precept a panel of jurors drafted, or the residue of whom have been drafted from the proper

If not a sufficient number on the lists

jury list in the jurors' book of the nearest preceding year for which there is a jurors' book or certified copy thereof in existence. R.S.O. 1960, c. 199, s. 58.

Sheriff to  
give notice  
and draft  
panel

**59.**—(1) Upon receipt of the precept, the sheriff shall post up in his office written notice of the day and hour at which he will attend at the office of the clerk of the peace to draft the panel of jurors, and at that time and place he shall draft the panel by ballot from the jury list in the presence of the clerk of the peace and a justice of the peace required to attend upon reasonable notice from the sheriff. R.S.O. 1960, c. 199, s. 59 (1); 1964, c. 50, s. 1.

Remunera-  
tion of  
justice of  
the peace

(2) For each panel drafted, the sheriff shall pay the justice of the peace in attendance the sum of \$5. 1968, c. 60, s. 2.

Notice to be  
8 days if  
time admits

**60.** If the sheriff has sufficient time, he shall post up such notice at least eight days before the drafting of the panel, and, if there is not sufficient time, he shall post up the notice forthwith upon receipt of the precept. R.S.O. 1960, c. 199, s. 60.

If drafting  
not  
completed

**61.** If the drafting or completing of the panel at the time appointed is prevented by unavoidable accident, it may be subsequently done or completed upon similar notices being first given. R.S.O. 1960, c. 199, s. 61.

How sheriff  
to prepare a  
panel

**62.**—(1) Before proceeding to draft a panel of jurors from a jury list, the sheriff shall prepare a proper title or heading for the panel of jurors to be returned, to which he shall fix an appropriate number according as such panel by the jurors' book appears to be the first, second, third or subsequent panel drafted from such jury list, and the title or heading shall set forth in words at length the number of jurors to be returned.

Ballots for  
drafting  
panel

(2) The sheriff shall then append to such title or heading a list of numbers from "1" forward to the number required, and shall prepare a set of ballot papers of uniform and convenient size containing the same number of ballot papers as there are numbers on the jury list, allowing one number to each ballot paper, which number shall be printed or written on it, and he shall then proceed to draft the panel of jurors. R.S.O. 1960, c. 199, s. 62.

How panel  
of jurors to  
be drafted

**63.** The manner of drafting the panel shall be as follows:

1. The sheriff shall place the ballot papers in a box or urn, and shall cause it to be shaken so as sufficiently to mix the ballot papers, and he shall then openly draw from the box or urn indiscriminately one of the ballot papers, and declare openly the number on such ballot paper, whereupon the clerk of the peace, or the justice of the peace in attendance shall immediately declare aloud the name of the person opposite whose name the corresponding number is placed on the jury list.

2. If such person is exempt from being drafted or from serving upon such panel under section 3, or if upon the face of such jury list it appears that the person whose number has been so drafted has previously been drafted to serve on a panel drafted from such jury list in obedience to a precept for the return of a general panel for any sittings of the Supreme Court, the court of general sessions of the peace, or county court, and that such person has actually attended and served upon such panel, and a sufficient number of names to complete the panel then in course of being drafted, remains on the jury list without taking any of those who have been so previously drafted, the sheriff shall publicly announce the fact of such exemption or previous service, and that the name of the person so drafted is, for that reason, not inserted in the panel.
3. If no such cause appears for omitting the name of such person from the panel, the name and addition of the person whose name has been so drafted shall be thereupon written down, and shall be marked by the sheriff on such jury list, with a reference to the number that will belong to such panel in the jurors' book.
4. The sheriff shall then proceed in like manner to draft and dispose of other numbers from the box or urn, until the necessary number for the panel has been completed, and such drafting and disposing of the numbers from the box or urn shall be done so that the panel when completed will not contain the name of a husband and his wife.
5. The names of the persons so drafted, arranged alphabetically, with their places of residence and additions shall then be transcribed by the sheriff upon another sheet of paper, with a reference to the number of each name on the jury list, and each name shall be thereupon marked by him or by his deputy upon the jury list book, with a reference to the number that belongs to such name in the panel in the jurors' book.
6. The panel so alphabetically arranged and numbered, with a short statement of the precept in obedience to which it has been drafted, the date and place of such drafting, and the names of the sheriff, or his deputy, and of the clerk of the peace and the justice of the peace, present at such drafting, or of at least two of them, shall then be entered in the jurors' book, and attested by the signatures of the sheriff, or his deputy, and of the clerk of the peace and the justice of the peace, or at least two of them. R.S.O. 1960, c. 199, s. 63.



Copies of  
panel to be  
transmitted

**64.** The sheriff shall, upon his return to the precept, annex thereto a panel containing the names, places of residence, and additions of the persons so drafted, and shall transmit one copy thereof to the clerk of the peace, and another to the office of the Registrar of the Supreme Court at Toronto, or to the local registrar, or to the clerk of the county court, as the case may be. R.S.O. 1960, c. 199, s. 64.

Secrecy of  
jurors' book  
and panel

**65.** The jurors' book and every list containing the names of the jury drafted for any panel shall be kept under lock and key by the sheriff and every officer mentioned in section 64 having a copy thereof, and except in so far as may be necessary in order to prepare the lists of the panel, and serve the jury summons, shall not be disclosed by the sheriff, his deputy, officer, clerk, or by any officer mentioned in section 64, or by any other person, until ten days before the sittings of the court for which the panel has been drafted, and during such period of ten days, the sheriff, or his deputy, and any officer mentioned in section 64 having a copy of the panel shall permit the inspection at all reasonable hours of the jurors' book and of the panel or copy thereof in his custody by litigants or accused persons or their solicitors and shall furnish the litigants or accused persons or their solicitors, upon request and payment of a fee of \$2, with a copy of any such panel. R.S.O. 1960, c. 199, s. 65.

#### SUMMONING JURORS

Jurors to be  
summoned  
10 or 15  
days before  
attendance  
required

**66.**—(1) The sheriff shall summon every person drafted to serve on grand juries or petit juries, by sending to him by registered mail a notice in writing in Form 3 of Schedule D under the hand of the sheriff, at least ten days, in the case of a county, and at least fifteen days, in the case of a provisional judicial district, before the day upon which the person is to attend, but when the sheriff is directed to draft and summon additional jurors under this Act, such ten or fifteen days service, as the case may be, is not necessary.

When  
actions to  
be entered  
for trial

(2) Subject, in the case of an action in the Supreme Court, to any order made by a judge of that court, and in the case of an action in the county court, to any order made by a judge of the county court, actions to be tried by a jury, whether in the Supreme Court or the county court, shall be entered for trial not later than six clear days before the first day of the sittings, provided that no order extending the time shall be made after the notice provided for by subsection 5 has been given by the sheriff to the jurors.

Counter-  
manding  
jury  
summonses  
where no  
business for  
jury

(3) Where there is no business requiring the attendance of a jury at a sittings of the Supreme Court or of a county court for the trial of actions with a jury, the local registrar or the clerk of the county court, as the case may be, at least five clear days before the day appointed for the sittings, shall give notice thereof in writing

in Form 5 of Schedule D to the sheriff that the attendance of jurors is not required.

(4) A similar notice shall be given to the sheriff by the clerk of the peace in the case of a sittings of the Supreme Court for the trial of criminal prosecutions, or in case of the sittings of the court of general sessions of the peace in a county, when it appears that the attendance of jurors at such sittings is not required.

For criminal prosecutions or general sessions

(5) Subject to subsection 8, the sheriff, upon receipt of such notice or notices, shall forthwith by registered letter or otherwise, as he considers expedient, notify in Form 6 of Schedule D each person summoned to serve as a juror that his attendance at the sittings is not required, and in case any person so summoned attends after receiving such notice, he is not entitled to any fees or mileage for attendance.

Notice to be given to juror

(6) Where, after the giving of such notice, a juror so summoned attends the sittings and the sheriff is satisfied that the notice was not received prior to the attendance and that the juror attended in good faith, believing such attendance to be necessary, the sheriff shall allow the juror his fees and mileage allowance.

Where juror attends owing to non-receipt of notice

(7) For sending every notice required by subsection 5 there shall be paid to the sheriff in the same manner and out of the same funds as the fees for the summoning of jurors the sum of 25 cents, and necessary disbursements paid by him for each juror so notified.

Fees of sheriff for sending notices

(8) In the case of a sittings of the Supreme Court for the trial of criminal matters and proceedings, or in the case of a sittings of the court of general sessions of the peace, the sheriff shall not give the notice mentioned in subsection 5 unless he is satisfied that there is no prisoner in custody awaiting trial at the sittings. R.S.O. 1960, c. 199, s. 66, *amended*.

Sheriff must ascertain that there are no prisoners in custody

**67.** Notwithstanding anything in this Act, the proper officer shall summon, in the manner heretofore used and accustomed, every person required to serve upon any inquest or inquiry before a coroner, or before any commissioners appointed under the Great Seal, or under the seal of the Supreme Court, or to serve as a talesman upon any jury. R.S.O. 1960, c. 199, s. 67.

Proper officer to summon jurors whenever required

**68.** Every sheriff shall be indemnified for empanelling and returning as a grand or petit juror any person named in or taken from the grand or petit jurors' rolls for the year in which he is summoned, although the person may not be qualified or liable to serve as a juror for such year. R.S.O. 1960, c. 199, s. 68.

Sheriff indemnified for returning unqualified persons, if in the rolls of jurors

#### EMPANELLING THE GRAND JURY

**69.**—(1) Where there do not appear as many as seven of the grand jurors summoned upon a panel returned upon any precept to a court of criminal jurisdiction, the court, upon the request of

If sufficient grand jurors do not appear

the Minister of Justice and Attorney General, or of counsel for the Crown, or of the Crown attorney, may command the sheriff to name and appoint so many persons then present or who can be found, whether on the panel of petit jurors or not, as will make up a grand inquest of seven, and the sheriff shall return such persons to serve on such grand inquest, and shall add their names to the panel returned upon such precept, and the court shall proceed with those grand jurors who were before empanelled, together with the talesmen so newly added, as if all such jurors had been originally returned upon such precept. R.S.O. 1960, c. 199, s. 69; 1955, c. 37, s. 11, *amended*.

Where  
juror  
becomes  
incapable

(2) Where, after a grand jury is empanelled, a juror becomes unable to carry out his duties because of death, sickness or for any other reason, he shall be replaced in the same manner as a talesman is added under subsection 1. 1967, c. 42, s. 3.

#### DRAWING JURY AT TRIAL

Empanelling  
petit jury at  
the trial

**70.** The name of every person summoned to attend as a petit juror at a sittings of the Supreme Court, the court of general sessions of the peace, or county court, with his place of residence and addition, shall be written distinctly by the sheriff on a card or paper, as nearly as may be of the form and size following, viz.:

#### DAVID BOOTH

OF LOT NO. 11, IN THE 7TH CON. OF ALBION

#### MERCHANT

and the names so written shall, under the direction of the sheriff, be put together in a box or urn to be provided by him for that purpose, and he shall deliver it to the clerk of the court. R.S.O. 1960, c. 199, s. 70; 1967, c. 42, s. 4.

How the  
clerk is to  
proceed to  
draw names

**71.**—(1) Where an issue is brought on to be tried, or damages are to be assessed by a jury, the clerk shall, in open court, cause the box or urn to be shaken so as sufficiently to mix the names, and shall then draw out six of the cards or papers, one after another, causing the box or urn to be shaken after the drawing of each name, and if any juror whose name is so drawn does not appear or is challenged and set aside, then such further number until six jurors are drawn, who do appear, and who, after all just causes of challenge allowed, remain as fair and indifferent, and the first six jurors so drawn, appearing and approved as indifferent, their names being noted in the minute book of the clerk of the court, shall be sworn, and shall be the jury to try the issue or to assess the damages.



(2) The cards or papers containing the names of persons so drawn and sworn shall be kept apart until the jury has given in its verdict, and it has been recorded, or until the jury has been by consent of the parties, or by leave of the court, discharged, and shall then be returned to the box or urn, there to be kept with the other cards or papers remaining therein. R.S.O. 1960, c. 199, s. 71.

Names drawn to be kept apart etc.

**72.** A jury may be selected in accordance with section 71 at any time before the trial of an issue or assessment of damages directed by the judge presiding at the sittings and shall attend for service upon the summons of the sheriff. 1967, c. 42, s. 5.

Selection of juries in advance

**73.** Notwithstanding sections 71 and 72, where no objection is made on the part of the Crown, or any other party, the court may try any issue or assess damages with the jury previously drawn to try any other issue, or to assess damages, without the cards or papers containing their names being returned to the box or urn and redrawn, or may order any of the jurors whom both parties consent to withdraw, or who may be justly challenged or excused by the court, to retire and may cause another name or other names to be drawn from the box or urn, and shall try the issue or assess the damages with the residue of the original jury and the new jurors who appear and are approved as indifferent. R.S.O. 1960, c. 199, s. 73.

Several causes may be tried in succession by the same jury

**74.—(1)** Where a full jury does not appear at a sittings of the Supreme Court, or at a sittings of the county court or of the court of general sessions of the peace, or where, after the appearance of a full jury, by challenge of any of the parties, the jury is likely to remain untaken for default of jurors, the court may command the sheriff to name and appoint so many of such other able persons of the county then present, or who can be found, as will make up a full jury, and the sheriff shall return such persons to serve on the jury.

If a full jury does not appear a *tales* may be granted

(2) Where a full jury does not appear, the names of the persons so returned shall be added to the panel returned upon the precept. R.S.O. 1960, c. 199, s. 74.

Adding names of talesmen

**75.** The presiding judge before whom a civil case is or may be heard may in his discretion on an application made by or on behalf of the parties or any of them or at his own instance, make an order for the jury to be composed of men only or of women only, as the case may require, or may, on an application made by a woman, excuse her from service on a jury in respect of any case, civil or criminal, by reason of the nature of the evidence to be given or the issues to be tried. R.S.O. 1960, c. 199, s. 75.

How jury to be composed



## ENTRY OF SERVICE OF JURORS

The sheriff to note on lists names of jurors who do not serve

**76.** Immediately after the sittings of the Supreme Court and of the court of general sessions of the peace, and of the county court, the sheriff shall note on the jury list from which the panel of grand jurors, if any, returned to the sittings was drafted, and on the jury list from which the panel of petit jurors was drafted, opposite the names of the jurors, the non-attendance or default of every juror who has not attended until discharged by the court. R.S.O. 1960, c. 199, s. 76.

## CHALLENGES

Lack of qualification

**77.** If a person not qualified is drawn as a juror for the trial of an issue in any matter or proceeding, the want of qualification is a good cause of challenge, but the want of a sufficient property qualification is not a good cause of challenge nor a cause for discharging the juror upon his own application. R.S.O. 1960, c. 199, s. 77.

Peremptory challenges in civil cases

**78.** In any cause, the plaintiff or plaintiffs, on one side, and the defendant or defendants, on the other, may challenge peremptorily any four of the jurors drawn to serve on the trial, and such right of challenge extends to the Crown when a party. R.S.O. 1960, c. 199, s. 78.

Ratepayers, officers, etc., of municipality may be challenged

**79.** In a matter or proceeding to which a municipal corporation, other than a county, is a party, every ratepayer, and every officer or servant of the corporation, is for that reason, liable to challenge as a juror. R.S.O. 1960, c. 199, s. 79.

## VIEW BY JURORS

View by jurors

**80.**—(1) Where in an action it appears to the presiding judge that in order to understand better the evidence the jurors who are to try the issues ought to have a view of the place or of the real or personal property in question, whether it be within or outside the county in which the trial is to take place, he may at any time after the jurors have been sworn and before they give their verdict order that the jurors have such view.

Terms of order

(2) The order may be made on such terms as to costs and the adjournment of the trial and otherwise as is considered just, and shall contain directions to the sheriff as to the manner in which and the persons by whom the place or the property in question shall be shown to the jurors and any other directions that under the circumstances the judge thinks proper. R.S.O. 1960, c. 199, s. 80.

MISCELLANEOUS

**81.** The omission to observe any of the provisions of this Act as respects the qualification, selection, balloting and distribution of jurors, the preparation of the jurors' book, the selecting of jury lists from the jurors' rolls, or the drafting of panels from the jury lists is not a ground of impeaching the verdict or judgment in any action. R.S.O. 1960, c. 199, s. 81.

Omissions to observe this Act not to vitiate the verdict

**82.**—(1) No person is liable to be summoned or empanelled to serve as a juror upon any inquest or inquiry to be taken or made by or before any commissioners appointed under the Great Seal, or the seal of any court having general jurisdiction throughout Ontario or throughout any county, unless the name of the person appears upon the jurors' rolls for the year in which the person is called upon to serve on the inquest or inquiry.

No person to be summoned whose name is not on the roll of jurors

(2) This section does not extend to any inquest or inquiry to be taken or made by or before a sheriff, coroner or bailiff. R.S.O. 1960, c. 199, s. 82.

Exception; coroners' juries, etc.

FEEES

**83.**—(1) Every grand juror attending a sittings of the Supreme Court or of the court of general sessions of the peace and every petit juror attending a sittings of the Supreme Court or of the court of general sessions of the peace or of the county court is entitled to receive \$10 a day for every day on which he was necessarily absent from his place of residence for the purpose of attending the sittings.

Jurors' fees

(2) Where a juror travels by his own automobile, he is entitled to receive, as a travelling allowance, 10 cents a mile each way for each mile necessarily travelled between his place of residence and the place where the sittings are held, except that, where the sittings are held in a city in which the juror resides, he is entitled to a travelling allowance of 75 cents, and the distance travelled shall be ascertained by the declaration of the sheriff.

Jurors' travelling allowance

(3) Where a juror travels by a means of transportation other than his own automobile, he is entitled to receive, as a travelling allowance, a sum equal to the amount of the fare actually paid for the transportation from his place of residence to the place where the sittings are held and return.

Idem

(4) Where a juror is required to attend the sittings on more than one day and returns to his place of residence at night, he is entitled to the travelling allowance mentioned in subsection 2 or 3, as the case may be, in respect of each day's attendance.

Allowance for each day's attendance

(5) Where a juror resides elsewhere and in the opinion of the sheriff it is desirable that he remain at the place of sittings over night, he is entitled to receive a sum equal to the amount

Overnight allowance

reasonably and actually paid by him for living expenses, but not more than \$8 for each night. R.S.O. 1960, c. 199, s. 83.

Sheriff to  
make a pay  
list for petit  
jurors

**84.**—(1) The sheriff shall make a pay list in the form of Schedule C for the petit jurors and shall attend or cause some officer to attend at the opening of the court on every day on which the court sits for the trial of actions by jury, and upon the petit jurors being called, shall check and mark the word “present” or “absent”, as the case may be, in the proper column of the list opposite the name of every juror, and on the last day of the sittings of the court shall pay to every petit juror the sum to which he appears by the list to be entitled. R.S.O. 1960, c. 199, s. 84 (1); 1968, c. 60, s. 3.

County  
court  
and general  
sessions to  
be deemed  
one court

(2) The county court and the court of general sessions of the peace shall for the purposes of this section be deemed to be one court, and the duty of calling the jurors at the opening of the court shall be performed by the clerk of whichever court is first opened. R.S.O. 1960, c. 199, s. 84 (2).

List of  
jurors to be  
called

**85.** The clerk of the court or the clerk of the peace, as the case may be, shall, at the opening of the court and before any other business is proceeded with, call the names of the petit jurors, so that the sheriff or his officer may check off those who are present or absent. R.S.O. 1960, c. 199, s. 86.

Jurors not  
attending  
not to be  
paid

**86.** A petit juror not appearing when called is not entitled to pay for the day on which he makes default. R.S.O. 1960, c. 199, s. 87.

Sums to be  
paid with  
record when  
entered for  
trial in jury  
cases

**87.** With every record entered for trial of issues or assessment of damages by a jury in the Supreme Court there shall be paid to the Registrar or the local registrar of the Supreme Court, as the case may be, the sum of \$3, and in the county court to the clerk of the county court, the sum of \$1.50, and the record shall not be entered unless such sum is first paid. R.S.O. 1960, c. 199, s. 88 (1).

Remunera-  
tion of  
selectors

**88.** The local and county selectors are entitled to such remuneration and allowances for the performance of their duties as may be determined by the Lieutenant Governor in Council. 1968, c. 60, s. 6.

#### PENALTIES

On jurors  
for non-  
attendance

**89.** If a person, having been duly summoned to attend on a jury, does not attend in pursuance of the summons, or being there called does not answer to his name, or if a juror or talesman, after having been called, is present but does not appear, or after his appearance wilfully withdraws himself from the presence of the court, the court may impose such fine upon the juror or talesman as is considered proper. R.S.O. 1960, c. 199, s. 97.

**90.**—(1) If a person having been duly summoned and returned to serve as a juror upon an inquest or inquiry before a sheriff or coroner, or before any of the commissioners mentioned in section 67, does not, after being openly called three times, appear and serve, the sheriff, coroner or commissioners may impose such fine, not exceeding \$20, upon the person so making default as is considered proper.

On jurors failing to attend upon inquests and inquiries, etc.

(2) The sheriff, coroner or commissioners shall make out and sign a certificate containing the name, the residence and addition of every person so making default, together with the amount of the fine imposed and the cause of the fine, and transmit the certificate to the clerk of the peace for the county in which the defaulter resides, on or before the first day of the sittings of the court of general sessions of the peace next ensuing.

Sheriff to certify defaults and transmit copies

(3) The clerk of the peace shall enter the fine so certified on the roll on which fines and forfeitures imposed at the court of general sessions are entered, and it shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects as if it had been a fine imposed at a sittings of the court of general sessions of the peace. R.S.O. 1960, c. 199, s. 98.

Fines to be estreated

**91.** If a sheriff wilfully empanels and returns to serve on a jury a person whose name has not been duly drawn upon the panel in the manner prescribed in this Act, or if a registrar, clerk of the peace, or other officer wilfully records the appearance of a person so summoned and returned who has not actually appeared, the court may, upon examination in a summary way, impose such fine upon the sheriff, clerk of assize, clerk of the peace, or other officer as is considered proper. R.S.O. 1960, c. 199, s. 99.

On sheriffs, etc., for default to perform duties assigned to them

**92.** No sheriff or other officer or person shall, directly or indirectly, take or receive money or other reward or promise of money or reward, to excuse any person from serving or being summoned to serve as a juror, and no bailiff or other officer appointed by a sheriff to summon jurors shall summon or pretend to summon any person to serve as a juror other than those whose names are specified in a warrant or mandate signed by the sheriff and directed to the bailiff or other officer, and if a sheriff or other officer wilfully transgresses in any of such cases, the Supreme Court, the court of general sessions of the peace or county court within whose jurisdiction the offence has been committed may impose upon the person so offending such fine as is considered proper. R.S.O. 1960, c. 199, s. 100.

On sheriffs, etc., taking a bribe

**93.** Every person who,

Offences

(a) being a sheriff or deputy sheriff, makes or causes to be made any alteration in any of the rolls, lists or panels in



any jurors' book, or in the certified copies thereof in his custody, except in compliance with the directions of this Act, or neglects or refuses to prepare the jurors' book, the ballot papers necessary for drafting the panels, striking special juries and drawing juries at the trial, or neglects or omits to return the jurors' book and the ballot papers for drafting the jury lists to the court to which he is required to return it, or neglects or omits to perform any other duty required of him by this Act, or wilfully does anything inconsistent with this Act; or

- (b) being a registrar or local registrar of the Supreme Court, makes or causes to be made any alteration in the rolls, lists or panels in any jurors' book, or in any copy thereof deposited in his office, or wilfully certifies as true any copy of a jurors' book, or any roll, list or panel therein, that is not a true copy thereof; or
- (c) being a clerk of a local municipality, or an assessment commissioner, assessor or other officer or person who, at the time of the annual meeting of the local selectors, has the actual charge or custody of the assessment roll of the municipality for such year, neglects or omits to perform the duties required of him by section 17; or
- (d) being a local selector, wilfully selects, ballots and reports as qualified and liable to serve as a grand or petit juror any person who, according to this Act, ought not to be so selected, balloted or reported, or takes money or other reward for selecting, balloting or reporting, or omitting to select, ballot or report any person, or wilfully inserts in his report a wrong description of the name, place or residence, or addition of a person so selected, balloted and reported, or neglects or omits to complete his selection, ballot and report, and to deposit it in the proper office on or before the 25th day of October of the year for which he acts as local selector; or
- (e) being a clerk of the peace, neglects or omits to perform any duty required of him in the manner herein prescribed, or wilfully does anything inconsistent with this Act,

shall for each offence forfeit the sum of \$200, one half of which shall be paid over to the Treasurer of Ontario, and the other half, with full costs, to any person who sues for it in any court of competent jurisdiction; and every such action shall be tried by the judge without the intervention of a jury, and when the action has been commenced in the county court, the judge of the county court shall, upon the application of either party thereto, by his order direct that it be tried at a sittings of the Supreme Court, and the record may thereafter be entered and the action tried at such sittings. R.S.O. 1960, c. 199, s. 101; 1968, c. 60, s. 1.

**94.** All penalties under this Act for which no other remedy is given may be recovered under *The Summary Convictions Act*. R.S.O. 1960, c. 199, s. 102.

Recovery of penalties  
R.S.O. 1970,  
c. 450

**95.**—(1) It is a contempt of court for any person interested in an action in any court, or his solicitor, counsel, agent or emissary, before or during the sittings of court at which the action is, or is to be, entered for trial or may be tried, or at any time after a juror has been summoned, knowingly, directly or indirectly to speak to or consult with a juror upon the jury panel for such court respecting such action or any matter or thing relating thereto. R.S.O. 1960, c. 199, s. 103 (1).

Tampering  
with jurors

(2) Where a solicitor or barrister or student at law or articled clerk is guilty of such offence he may, in addition to any other penalty, be struck from the roll of solicitors or be disbarred or suspended from the practice of his profession for a limited time or his name may be erased from the list of the Law Society or removed therefrom for a limited time by the Supreme Court upon motion at the instance and in the name of the Minister of Justice and Attorney General. R.S.O. 1960, c. 199, s. 103 (2), *amended*.

Barrister,  
solicitor or  
student to  
be disbarred  
or suspended

(3) This section does not apply where a juror is also a party to or a known witness or interested in the action or is otherwise ineligible as a juror in the action, nor to anything that may properly take place in the course of the trial or conduct of the action. R.S.O. 1960, c. 199, s. 103 (3).

Exception  
where juror  
is a party  
or witness

#### GENERAL PROVISIONS

**96.** It is the duty of the sheriff at the sittings of the Supreme Court for trials by jury and the court of general sessions of the peace to post up in the court room and jury rooms and in the general entrance hall of the court house, printed copies in conspicuous type of section 119 of the *Criminal Code* (Canada). R.S.O. 1960, c. 199, s. 104.

Posting up  
copies of  
s. 119 of  
*Criminal Code*

1953-54,  
c. 51 (Can.)

**97.** Nothing in this Act alters, abridges or affects any power or authority that any court or judge has, or any practice or form in regard to trials by jury, juries or jurors, except in those cases only where such power or authority, practice or form is repealed or altered, or is inconsistent with any of the provisions of this Act. R.S.O. 1960, c. 199, s. 105.

Saving of  
former  
powers of  
court and  
judges  
except as  
altered

SCHEDULE A  
(Section 23)

REPORT OF LOCAL SELECTORS FROM ASSESSMENT ROLL

Report of the selection and distribution of jurors for the municipality of \_\_\_\_\_, in the County of \_\_\_\_\_, for the year 19\_\_\_\_, made by \_\_\_\_\_, Mayor (or Reeve), and \_\_\_\_\_, Clerk, and by \_\_\_\_\_ and \_\_\_\_\_, Assessors, and \_\_\_\_\_ and \_\_\_\_\_, of the municipality, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, pursuant to the directions of *The Jurors Act.* (see note 1).

FIRST DIVISION

*For the Roll of Grand Jurors to serve in the Supreme Court of Ontario*

NAMES	No. of Lot or House, where known to the Selectors	Concession or Street, or Village or Hamlet, where known to the Selectors	OCCUPATIONS
John Anderson.....	16	2	Farmer
Peter Cameron.....	4	6	Merchant
William O'Leary.....	..	Oatlands	Retired
Alfred Piper.....	17	1	Plumber
etc.			

SECOND DIVISION

*For the Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction*

NAMES	No. of Lot or House, where known to the Selectors	Concession or Street, or Village or Hamlet, where known to the Selectors	OCCUPATIONS
William Adams.....	9	4	Gentleman
Richard House.....	7	5	Merchant
Allan Thomas.....	24	5	Retired
Jacob Wyse.....	2	1	Tailor
etc.			

## THIRD DIVISION

*For the Roll of Petit Jurors to serve in the Supreme Court of Ontario*

NAMES	No. of Lot or House, where known to the Selectors	Concession or Street, or Village or Hamlet, where known to the Selectors	OCCUPATIONS
David Boothe. . . . .	11	7	Merchant
Henry Grace. . . . .	1	7	Farmer
Nathan Lowe. . . . .	6	1	Shoemaker
George Sullivan. . . . .	3	4	Civil Servant
etc.			

## FOURTH DIVISION

*For the Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of  
Criminal and Civil Jurisdiction*

NAMES	No. of Lot or House, where known to the Selectors	Concession or Street, or Village or Hamlet, where known to the Selectors	OCCUPATIONS
William Carpenter. . . . .	7	2	Clerk
George Gule. . . . .	7	8	Tailor
Samuel Jones. . . . .	15	3	Farmer
Thomas Hoole Rogers. . . . .	11	1	Gentleman
etc.			

We, the above-named local Selectors for the Municipality of \_\_\_\_\_, solemnly declare, each for himself, that we have made the selection and distribution of Jurors in this Report from the proper lists of the municipality to the best of our judgment and information, pursuant to the directions of *The Jurors Act*, and that we have so made the same without fear, favour or affection of, to or for any person or persons whomsoever, gain, reward, or hope thereof, other than the fees to which we are entitled under the provisions of that Act.

Witness our hands and seals the day and year last above written.

A. B. [L.S.] Mayor or Reeve.

C. D. [L.S.] Clerk.

G. H. [L.S.] Assessor.

I. J. [L.S.] Assessor.



## SCHEDULE B

(Section 25)

## JURORS' BOOK

The JURORS' BOOK for the County of \_\_\_\_\_, for the year 19 \_\_\_\_\_

(See note 1)

## 1.—ROLL OF GRAND JURORS

To serve in the Supreme Court of Ontario

(See note 2)

No. on Roll	NAMES	No. of Lot or House	Concession or Street, or Village or Hamlet	OCCUPATIONS	No. on List	REMARKS
	1 KING (Township)					
1	Anderson, John . . . .	16	..	Farmer		Exempted, having served on G.J. List S.C., 19
2	Aylof Graham . . . .	9	4	Gentleman		
3	Bosworth, David . . .	11	7	Merchant		
4	Cameron, Peter . . . .	4	6			
	(Etc., to, say)					
20	Young, David . . . .	7	8	Tailor	3	
	2 MARKHAM (Township)					
21	Allan, Simon . . . . .	21	7			
22	Bolland, George . . .	5	12	Gentleman	2	
	(Etc., to, say)					
31	Wilkinson, James . .	13	4	Farmer		
32	Yates, Edward . . . .	1	5		144	
	3 NEWMARKET (Town)					
	4 TORONTO (City)					
	26 YORK (Township)					
503	Arthur, Thomas . . .	3	2 from Bay			
504	Bull, Peter . . . . .	14	1 E. Y'ge St.		1	

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the local Selectors for the municipalities in the County of \_\_\_\_\_, for the year 19 \_\_\_\_\_, as such Reports remained with me as Clerk of the Peace on the 25th day of October in that year, and that such Grand Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Grand Jurors for such county in the Supreme Court.

Witness my hand this

day of \_\_\_\_\_, 19 \_\_\_\_\_,  
E. F., Clerk of the Peace.

2.—THE GRAND JURY LIST

FOR the Supreme Court of Ontario (*see note 2*), as selected for the County  
of \_\_\_\_\_ by the County Selectors, on \_\_\_\_\_, the  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, pursuant to the directions of  
*The Jurors Act*.

No. on list	NAMES	No. of Lot or House, as in Jurors' Roll	Concession or Street, or Village or Hamlet, as in Jurors' Roll	Municipality	Occupations	No. on Roll	No. of Panel	Remarks to be filled in by Sheriff, see s. 93
1	Arthur, Thomas. .	3	2 From Bay	York		503	1	
2	Bolland, George. .	5	12	Mark- ham	Gentleman	22	1	
3	Yates, Edward. . .	7	8	King	Tailor	20		
	( <i>Etc., to, say</i> )							
144	Young, David. . . .	1	5	Mark- ham		32	1	

These are to certify that on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the foregoing Grand Jury List for the  
County of \_\_\_\_\_ for the Supreme Court for the year 19\_\_\_\_, was duly selected from the Roll of Grand Jurors to serve in the Supreme Court for the same year, pursuant to the directions of *The Jurors Act*.  
Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
C. D., Chairman,  
E. F., Clerk of the Peace.

3.—GRAND JURY PANELS FOR THE SUPREME COURT OF  
ONTARIO

(*See note 2*)  
No. 1.

PANEL of Grand Jurors returned upon a Precept from the Honourable G. H., the Honourable I. J., (etc.) Her Majesty's Justices in that behalf, tested the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for the return of seven of such Jurors for the sittings of the Supreme Court to be held for the County of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, as drafted on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the office of the Clerk of the Peace in \_\_\_\_\_, by A. B., Esquire, Sheriff, in the presence of K. L. and M. N. Esquires, Justices of the Peace for the County, pursuant to the directions of *The Jurors Act*.

No. on Panel	NAMES	No. of Lot or House	Concession or Street, or Village or Hamlet	Municipality	Occupations	No. on Lists	Remarks
1	Arthur, Thomas	3	2 From Bay	York	Farmer	1	
2	Bolland, George ( <i>Etc., to, say</i> )	5	12	Mark- ham	Gentleman	2	
24	Yates, Edward.	1	5	Mark- ham	Farmer	144	

Witness our hands, the day and year last above written.

A. B., Sheriff.

K. L., J.P.

*M. N., J.P.*

No. 2. (See Note 4), etc.

#### 4.—ROLL OF GRAND JURORS

To serve in Her Majesty's Inferior Courts (see note 2) of Criminal Jurisdiction. (See note 3)  
(Continue as in Form 1, substituting in the certificate for the words "Supreme Court" the words "Inferior Courts of Criminal Jurisdiction")

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*E. F.*, Clerk of the Peace.

### 5.—THE GRAND JURY LIST

FOR the Inferior Courts (*see note 2*), as selected by the  
County Selectors, for the County of \_\_\_\_\_,  
on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
pursuant to the directions of *The Jurors Act*.

(Continue as in Form 2, substituting in the certificate for the words "Supreme Court" the words "Inferior Courts of Criminal jurisdiction".)

Witness our hands this                      day of                      , 19       .

*C. D.*, Chairman,  
*E. F.*, Clerk of the Peace.

## 6.—GRAND JURY PANELS FOR THE INFERIOR COURTS

(See note 2)

No. 1.

PANEL of Grand Jurors returned upon a Precept from the Presiding Judge of the Court of General Sessions of the Peace for the County or District of \_\_\_\_\_, tested the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for the return of seven of such Jurors for the Sittings of the Court of General Sessions of the Peace, to be held, etc.

(Continue as in Form 3.)

7.—ROLL OF PETIT JURORS

To serve in the Supreme Court of Ontario. (See notes 2 and 3)

No. on Roll	NAMES	No. of Lot or House	Concession or Street, or Village or Hamlet	Occupations	No. on List	Remarks to be filled in by Sheriff, see s. 76.
	1 KING (Township)					
1	Adams, George . . . .	16	2	Farmer		
2	Aikins, William . . .	21	7		2	
3	Alley, Simon . . . . .	25	3			
4	Ashford, Thomas . . .	19	5		3	
5	Barclay, John . . . . .	5	5	Gentleman	1	
6	Cameron, William . .	11	7	Merchant	5	
7	Daniels, George . . .	9	2	Shoemaker	4	
8	Parley, Peter . . . . .	4	6			
9	Small, William . . . .	22	11		6	
10	Worth, David . . . . .	7	8	Tailor	7	
	(etc, to, say)					
1060	Yarrold, George . . .	14		Baker	288	
	2 MARKHAM (Township) etc.					

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the local Selectors for the municipalities in the County of \_\_\_\_\_, for the year 19\_\_\_\_, as such Reports remained with me as Clerk of the Peace on the 25th day of October of that year, and that such Petit Jurors' Roll contains true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Petit Jurors for such county in the Supreme Court.

Witness my hand this \_\_\_\_\_ day \_\_\_\_\_, 19\_\_\_\_.

E. F., Clerk of the Peace.



8.—THE PETIT JURY LIST

For the Supreme Court of Ontario (*see note 2*), as selected for the County  
of \_\_\_\_\_ on \_\_\_\_\_, the \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, pursuant to the directions of *The*  
*Jurors Act*.

No. on List	NAMES	No. of Lot or House	Concession or Street, or Village or Hamlet	Residence	Occupations	No. on Roll	No. of Panel	Remarks to be filled in by Sheriff, see s. 76.
1	Adams, George. . .	5	5	King	Gentleman	5		
2	Alley, Simon. . . .	21	7	King		2	1	
3	Ashford, Thomas	2	19	King		4		
4	Barclay, John. . . .	19	8	King	Shoemaker	7		
5	Daniel, George. . .	9	5	King	Merchant	6		
6	Worth, David. . . .	11	16	King		9		
	( <i>etc., to, say</i> )							
188	Yarrolld, George	14	9	King	Baker	1060	1	
1								

These are to certify that on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
the foregoing Petit Jury List for the County of \_\_\_\_\_ for the  
Supreme Court for the year 19\_\_\_\_, was duly selected from the Roll of Petit Jurors  
to serve in the Supreme Court for the same year, pursuant to the directions of *The*  
*Jurors Act*.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

C. D., Chairman.  
E. F., Clerk of the Peace.

9.—PETIT JURY PANELS

FOR the Supreme Court of Ontario. (See note 2)

No. 1.

PANEL of Petit Jurors returned upon a Precept from the Honourable *G. H.*, the Honourable *J. J.*, etc., Justices of the Supreme Court, tested the            day of           , 19           , for the return of such Jurors, for the Sittings of the High Court of Justice (*or as the precept requires*) to be held for the County of            on           , the            day of           , 19           , as drafted on           , the            day of           , 19           , at the office of the Clerk of the Peace in           , by *A. B.*, Esquire, Sheriff, in the presence of *K. L.* and *M. N.*, Esquires, Justices of the Peace for the County, pursuant to the directions of *The Jurors Act*.

No. of Panel	NAMES	No. of Lot or House	Concession or Street, or Village or Hamlet	Municipality	Occupations	No. on List	Remarks
1	Alley, Simon . . . ( <i>Etc., to, say</i> )	21	7	King	Merchant	2	
48	Yarrold, George	14	9	King			

Witness our hands the day and year last above written.

*A. B.*, Sheriff,  
*K. L.*, J.P.  
*M. N.*, J.P.

R.S.O. 1960, c. 199, Sched. B; 1955, c. 37, s. 14.

No. 2. (See note 4.)

NOTE.—The corresponding Forms for the Inferior Courts of Civil and Criminal Jurisdiction shall be, with appropriate changes, Forms 7 to 9.

NOTES TO FORMS IN SCHEDULES A AND B

- (1) *This Title to be placed at the head of each page of the Book.*
- (2) *So much of this Sub-Title as ends with this word to be placed at the head of each page of the Book appropriated to this class of entries.*
- (3) *This Roll to be commenced on a new page, after leaving a sufficient number of leaves for the Jury List to be selected from the preceding Roll and the probable number of Panels that may be drafted from such Lists in the course of the year.*
- (4) *The subsequent Panels following immediately may be commenced on the same page on which the preceding one is closed.*

SCHEDULE C  
(Section 84)

Pay List for Petit Jurors who have attended the Sittings of the  
case may be), held for the of , begun on the day of , 19 , and ended on the day (as the day of

NAME OF JURORS	Number of miles travelled in com- ing to Court	Check of Attendance								Amount to be paid to Juror		Juror's signature acknowledging receipt of money
		1st day	2nd day	3rd day	4th day	5th day	6th day	7th day	8th day	\$	cts.	
John Just.....	21	present	present	present	present	present	present	present	present			
Charles Careless. ....	..	absent	absent	absent	absent	absent	absent	absent	absent			

R.S.O. 1960, c. 199, Sched. C; 1968, c. 60, s. 8.

SCHEDULE D

FORM 1

(Section 45)

In the Supreme Court of Ontario

Reigning Sovereign, etc.

Ontario

County (or District) of

To Wit:

To the Sheriff of the

of

You are commanded that you cause to come before the Judge or other person holding the sittings of the Supreme Court (or County or District Court or Court of General Sessions of the Peace) at \_\_\_\_\_ in your Bailiwick, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, all panels concerning such sittings (*and when the sittings are for the trial of criminal as well as civil cases*), and also cause to come seven good and lawful persons of your Bailiwick duly qualified to serve as Grand Jurors at the said sittings; and also summon a competent number, being not less than \_\_\_\_\_ good and lawful persons duly qualified to serve as Petit Jurors for the trial of (Criminal and) Civil issues; and that you and your deputy Sheriff, Bailiffs, and other officers then and there attend in your proper persons to do those things which to your and their offices appertain. And that you have then and there the names of all Jurors and Constables whom you shall cause to come before us. And have then and there this Precept.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

R.S.O. 1960, c. 199, Sched. D, Form 1; 1955, c. 37, s. 15.

FORM 2

(Section 47 (2) )

Take notice that there being no business requiring the attendance of petit jurors at the sittings of the Supreme Court (or County or District Court or Court of General Sessions of the Peace) on the opening day thereof to be held the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, your attendance as a juror on that day is not required, and in so far as the summons served upon you requires your attendance on that day it shall be disregarded.

Further take notice that you are required to attend the sittings of this court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.

And further take notice that in case you attend at such sittings on any day prior to that last above mentioned, you will not be entitled to any fees or mileage for such attendance.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Sheriff of the County  
(or District) of \_\_\_\_\_

R.S.O. 1960, c. 199, Sched. D, Form 2.



## FORM 3

(Section 66 (1) )

To

Take notice that you are required to attend the sittings of the Supreme Court (or County or District Court or Court of General Sessions of the Peace) to be held at \_\_\_\_\_, in the County (or District) of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, as a Grand (or Special or Petit) Juror, and in default of your so attending you will be liable to the penalties provided by *The Jurors Act*.

Dated at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Sheriff of the County  
(or District) of \_\_\_\_\_

R.S.O. 1960, c. 199, Sched. D, Form 3.

## FORM 4

(Section 4)

## NOTICE TO SHERIFF

To the Sheriff of the \_\_\_\_\_ of \_\_\_\_\_

Take notice that I, \_\_\_\_\_, being a woman, hereby claim exemption from service as a juror for a period of one year from the date of this notice.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

.....  
*Witness*

.....  
*Claimant*

R.S.O. 1960, c. 199, Sched. D, Form 4.

## FORM 5

(Section 66 (3) )

To the Sheriff of the \_\_\_\_\_ of \_\_\_\_\_

Take notice that there is no (civil or criminal, as the case may be) business requiring the attendance of a jury at the ensuing sittings of the Supreme Court (or the County or District Court) to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that the attendance of jurors at such sittings is not required.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Registrar (or Local Registrar of the Supreme Court, Clerk of the County Court or Clerk of the Peace, as the case may be) for the County or District of \_\_\_\_\_

R.S.O. 1960, c. 199, Sched. D, Form 5.

## FORM 6

(Section 66 (5) )

To

Take notice that there being no business requiring the attendance of jurors at the sittings of the Supreme Court (*or* the County *or* District Court) to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, your attendance as a juror at such sittings is not required, and the summons served upon you for your attendance is cancelled.

Further take notice that in case you attend at such sittings after the receipt by you of this notice you will not be entitled to any fees or mileage for such attendance.

This notice is given pursuant to *The Jurors Act*.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Sheriff of the County  
(*or* District) of \_\_\_\_\_

R.S.O. 1960, c. 199, Sched. D, Form 6.



CHAPTER 231

The Justices of the Peace Act

1. Every judge of the Supreme Court of Canada, of the Exchequer Court of Canada, of the Supreme Court of Ontario and every judge and junior judge of a county or district court is *ex officio* a justice of the peace for every part of Ontario and as such has power to do alone whatever is authorized to be done by two or more justices of the peace. R.S.O. 1960, c. 200, s. 1.

Justices  
of the  
peace  
*ex officio*

2.—(1) Subject to subsection 2, the Lieutenant Governor by commission under the Great Seal pursuant to an order in council may appoint justices of the peace in and for Ontario or any part thereof.

Appoint-  
ment

(2) A person, other than a barrister or solicitor, desirous of being appointed a justice of the peace shall be examined in regard to his qualifications for the office by the judge of the county or district court of the county or district in which he resides, or by such other person as is appointed in that behalf by the Lieutenant Governor in Council, and no such person shall be appointed a justice of the peace without a certificate from such judge or other person that he has examined the applicant and finds him qualified for the office and that in his opinion a justice of the peace is needed for the public convenience in matters pertaining to the administration of justice. R.S.O. 1960, c. 200, s. 2.

Examina-  
tion as  
to quali-  
fications

3. All former general commissions of the peace are void upon the issue of a new general commission of the peace, but nothing in this Act prevents the reappointment of any justice of the peace named in a former commission if the Lieutenant Governor in Council thinks fit, and the issue of a supplementary commission of the peace does not operate as a revocation of a general commission. R.S.O. 1960, c. 200, s. 3.

Effect of  
new general  
commission

4.—(1) A justice of the peace, before acting, shall take the following oath:

Oaths

I, A.B., of the ..... of .....  
in the County (or District) of ..... do swear  
that I will well and truly serve Her Majesty Queen Elizabeth (or the  
*reigning Sovereign for the time being*) in the office of justice of the peace,  
and I will do right to all manner of people according to law, without fear  
or favour, affection or ill will. So help me God.

A.B.

Sworn before me, etc.

and also the oath of allegiance as required by *The Public Officers Act*. R.S.O. 1970, c. 382



Filing  
oaths

(2) The oath of office and oath of allegiance shall be transmitted forthwith to the Inspector of Legal Offices and shall be filed in his office. R.S.O. 1960, c. 200, s. 4.

Power to  
take  
oaths  
R.S.O. 1970,  
c. 72

**5.** A justice of the peace has the same power to administer oaths, affirmations and declarations as a commissioner appointed under *The Commissioners for taking Affidavits Act*. R.S.O. 1960, c. 200, s. 5.

Powers  
of justices  
of the  
peace

**6.**—(1) A justice of the peace acting within his territorial jurisdiction,

- (a) may take informations or issue search warrants, summonses or warrants returnable before a provincial judge; and
- (b) may hear and determine prosecutions under municipal by-laws.

Limitation  
of power

(2) Except as provided in subsection 1, a justice of the peace shall not act in any case except under the direction of a provincial judge. R.S.O. 1960, c. 200, s. 7.

Returns of  
convictions,  
etc.

**7.** Where a justice of the peace tries an offence,

- (a) under a municipal by-law; or
- (b) under the direction of a provincial judge,

he shall make such returns as the Inspector of Legal Offices directs. R.S.O. 1960, c. 200, s. 8.

Fees

**8.** In cases not provided for in any other Act, the Lieutenant Governor in Council may fix the fees and allowances to be paid to justices of the peace out of the moneys appropriated by the Legislature for the administration of justice. 1968, c. 61, s. 2, *part*.

Salary

**9.**—(1) The Lieutenant Governor in Council may authorize the payment of a salary to a justice of the peace appointed for a city or metropolitan municipality and fix the amount thereof.

Remission  
of fees

(2) Where a justice of the peace is paid a salary under subsection 1, the Lieutenant Governor in Council may require him to pay to the Treasurer of Ontario all or any portion of the fees collected by him as justice of the peace. 1968, c. 61, s. 2, *part*.

R.S.O. 1970,  
c. 232  
does not  
apply

**10.** *The Labour Relations Act* does not apply to full-time justices of the peace. 1965, c. 53, s. 1.

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## CHAPTER 232

## The Labour Relations Act

**W**HEREAS it is in the public interest of the Province of Ontario Preamble  
to further harmonious relations between employers and  
employees by encouraging the practice and procedure of collec-  
tive bargaining between employers and trade unions as the freely  
designated representatives of employees. 1970, c. 85, s. 1.

*Therefore, Her Majesty, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as follows:*

**1.—(1)** In this Act,

Interpre-  
tation

- (a) “accredited employers’ organization” means an organization of employers that is accredited under this Act as the bargaining agent for a unit of employers;
- (b) “bargaining unit” means a unit of employees appropriate for collective bargaining, whether it is an employer unit or a plant unit or a subdivision of either of them;
- (c) “Board” means the Ontario Labour Relations Board;
- (d) “certified council of trade unions” means a council of trade unions that is certified under this Act as the bargaining agent for a bargaining unit of employees of an employer;
- (e) “collective agreement” means an agreement in writing between an employer or an employers’ organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers’ organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers’ organization, the trade union or the employees;
- (f) “construction industry” means the businesses that are engaged in constructing, altering, decorating, repairing or demolishing buildings, structures, roads, sewers, water or gas mains, pipe lines, tunnels, bridges, canals or other works at the site thereof;
- (g) “council of trade unions” includes an allied council, a trades council, a joint board and any other association of trade unions;
- (h) “employers’ organization” means an organization of employers formed for purposes that include the regula-

tion of relations between employers and employees and includes an accredited employers' organization;

- (i) "lock-out" includes the closing of a place of employment, a suspension of work or a refusal by an employer to continue to employ a number of his employees, with a view to compel or induce his employees, or to aid another employer to compel or induce his employees, to refrain from exercising any rights or privileges under this Act or to agree to provisions or changes in provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, an employers' organization, the trade union, or the employees;
- (j) "member", when used with reference to a trade union, includes a person who,
  - (i) has applied for membership in the trade union, and
  - (ii) has paid to the trade union on his own behalf an amount of at least \$1 in respect of initiation fees or monthly dues of the trade union,and "membership" has a corresponding meaning;
- (k) "Minister" means the Minister of Labour;
- (l) "professional engineer" means an employee who is a member of the engineering profession entitled to practise in Ontario and employed in a professional capacity;
- (m) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slow-down or other concerted activity on the part of employees designed to restrict or limit output;
- (n) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national or international trade union and a certified council of trade unions. R.S.O. 1960, c. 202, s. 1 (1); 1961-62, c. 68, s. 1 (1); 1964, c. 53, s. 1; 1966, c. 76, s. 1; 1970, c. 3, s. 1; 1970, c. 85, s. 2 (1-3).

Idem

(2) For the purposes of this Act, no person shall be deemed to have ceased to be an employee by reason only of his ceasing to work for his employer as the result of a lock-out or strike or by reason only of his being dismissed by his employer contrary to this Act or to a collective agreement. R.S.O. 1960, c. 202, s. 1 (2).

Idem

(3) Subject to section 80, for the purposes of this Act, no person shall be deemed to be an employee,

- (a) who is a member of the architectural, dental, land surveying, legal or medical profession entitled to practise in Ontario and employed in a professional capacity; or

- (b) who, in the opinion of the Board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations. R.S.O. 1960, c. 202, s. 1 (3); 1961-62, c. 68, s. 1 (2); 1970, c. 85, s. 2 (4, 5).

(4) Where, in the opinion of the Board, associated or related activities or businesses are carried on by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, under common control or direction, the Board may treat the corporations, individuals, firms, syndicates or associations or any combination thereof as constituting one employer for the purposes of this Act. 1970, c. 85, s. 2 (6). Idem

#### APPLICATION OF ACT

### 2. This Act does not apply,

- (a) to a domestic employed in a private home;
- (b) to a person employed in agriculture, hunting or trapping;
- (c) to a person, other than an employee of a municipality or a person employed in silvaculture, who is employed in horticulture by an employer whose primary business is agriculture or horticulture;
- (d) to a member of a police force within the meaning of *The Police Act*;
- (e) to a full-time fire fighter within the meaning of *The Fire Departments Act*; or
- (f) to a teacher as defined in *The Teaching Profession Act*. R.S.O. 1960, c. 202, s. 2.

Where Act  
not to  
apply

R.S.O. 1970,  
c. 351

R.S.O. 1970,  
c. 169

R.S.O. 1970,  
c. 456

#### FREEDOMS

3. Every person is free to join a trade union of his own choice and to participate in its lawful activities. R.S.O. 1960, c. 202, s. 3. Membership  
in trade  
union

4. Every person is free to join an employers' organization of his own choice and to participate in its lawful activities. R.S.O. 1960, c. 202, s. 4. Membership  
in  
employers'  
organization

#### ESTABLISHMENT OF BARGAINING RIGHTS BY CERTIFICATION

5.—(1) Where no trade union has been certified as bargaining agent of the employees of an employer in a unit that a trade union claims to be appropriate for collective bargaining and the employees in the unit are not bound by a collective agreement, a trade union may, subject to section 53, apply at any time to the Board for certification as bargaining agent of the employees in the unit. R.S.O. 1960, c. 202, s. 5 (1). Application  
for  
certification



Idem

(2) Where a trade union has been certified as bargaining agent of the employees of an employer in a bargaining unit and has not entered into a collective agreement with the employer and no declaration has been made by the Board that the trade union no longer represents the employees in the bargaining unit, another trade union may, subject to section 53, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit determined in the certificate only after the expiration of one year from the date of the certificate. 1966, c. 76, s. 2 (1).

Idem

(3) Where an employer and a trade union agree that the employer recognizes the trade union as the exclusive bargaining agent of the employees in a defined bargaining unit and the agreement is in writing signed by the parties and the parties have not entered into a collective agreement and the Board has not made a declaration under section 52, another trade union may, subject to section 53, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the recognition agreement only after the expiration of one year from the date that the recognition agreement was entered into. 1970, c. 85, s. 3.

Idem

(4) Where a collective agreement is for a term of not more than three years, a trade union may, subject to section 53, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the commencement of the last two months of its operation. R.S.O. 1960, c. 202, s. 5 (2); 1966, c. 76, s. 2 (2).

Idem

(5) Where a collective agreement is for a term of more than three years, a trade union may, subject to section 53, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the commencement of the thirty-fifth month of its operation and before the commencement of the thirty-seventh month of its operation and during the two-month period immediately preceding the end of each year that the agreement continues to operate thereafter or after the commencement of the last two months of its operation, as the case may be. R.S.O. 1960, c. 202, s. 5 (3); 1966, c. 76, s. 2 (3).

Idem

(6) Where a collective agreement referred to in subsection 4 or 5 provides that it will continue to operate for a further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or to the making of a new agreement, a trade union may, subject to section 53, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement during the further term or successive terms only during the last two months of each year that it so continues to operate, or after

the commencement of the last two months of its operation, as the case may be. R.S.O. 1960, c. 202, s. 5 (4); 1966, c. 76, s. 2 (4).

**6.**—(1) Upon an application for certification, the Board shall determine the unit of employees that is appropriate for collective bargaining, but in every case the unit shall consist of more than one employee and the Board may, before determining the unit, conduct a vote of any of the employees of the employer for the purpose of ascertaining the wishes of the employees as to the appropriateness of the unit. R.S.O. 1960, c. 202, s. 6 (1).

Board to  
determine  
appropriate-  
ness of  
units

(2) Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or craft shall be deemed by the Board to be a unit appropriate for collective bargaining if the application is made by a trade union pertaining to such skills or craft, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made, or where the group of employees is exercising a combination of technical skills or is required to perform the skills in whole or in part of more than one craft as part of a work crew or team, the other members of which are also required to perform in similar fashion. R.S.O. 1960, c. 202, s. 6 (2); 1970, c. 85, s. 4 (1).

Crafts units

(3) A bargaining unit consisting solely of professional engineers shall be deemed by the Board to be a unit of employees appropriate for collective bargaining, but, the Board may include professional engineers in a bargaining unit with other employees if the Board is satisfied that a majority of such professional engineers wish to be included in such bargaining unit. 1970, c. 85, s. 4 (2).

Unit of  
professional  
engineers

**7.**—(1) Upon an application for certification, the Board shall ascertain the number of employees in the bargaining unit at the time the application was made and the number of employees in the unit who were members of the trade union at such time as is determined under clause *j* of subsection 2 of section 92. R.S.O. 1960, c. 202, s. 7 (1).

Determina-  
tion of  
members in  
bargaining  
unit

(2) If the Board is satisfied that not less than 35 per cent and not more than 65 per cent of the employees in the bargaining unit are members of the trade union, the Board shall, and if the Board is satisfied that more than 65 per cent of such employees are members of the trade union, the Board may direct that a

Representa-  
tion vote

representation vote be taken. R.S.O. 1960, c. 202, s. 7 (2); 1970, c. 85, s. 5 (1).

Certification  
after vote

(3) If on the taking of a representation vote more than 50 per cent of the ballots cast are cast in favour of the trade union, and in other cases, if the Board is satisfied that more than 65 per cent of the employees in the bargaining unit are members of the trade union, the Board shall certify the trade union as the bargaining agent of the employees in the bargaining unit. 1970, c. 85, s. 5 (2).

Certification  
without vote

(4) If the Board is satisfied that more than 50 per cent of the employees in the bargaining unit are members of the trade union and that the true wishes of the employees are not likely to be disclosed by a representation vote, the Board may certify the trade union as bargaining agent without taking a representation vote. R.S.O. 1960, c. 202, s. 7 (5).

Pre-hearing  
votes

8.—(1) Upon an application for certification, the trade union may request that a pre-hearing representation vote be taken. R.S.O. 1960, c. 202, s. 8 (1).

Voting  
constituency

(2) Upon such a request being made, the Board may determine a voting constituency and, if it appears to the Board on an examination of the records of the trade union and the records of the employer that not less than 35 per cent of the employees in the voting constituency were members of the trade union at the time the application was made, the Board may direct that a representation vote be taken among the employees in the voting constituency. R.S.O. 1960, c. 202, s. 8 (2); 1970, c. 85, s. 6 (1).

Sealing of  
ballot box

(3) The Board may direct that the ballot box containing the ballots cast in a representation vote taken under subsection 2 shall be sealed and that the ballots shall not be counted until the parties have been given full opportunity to present their evidence and make their submissions. R.S.O. 1960, c. 202, s. 8 (3).

Effect of  
pre-hearing  
vote

(4) After a representation vote has been taken under subsection 2, the Board shall determine the unit of employees that is appropriate for collective bargaining and, if it is satisfied that not less than 35 per cent of the employees in such bargaining unit were members of the trade union at the time the application was made, the representation vote taken under subsection 2 has the same effect as a representation vote taken under subsection 2 of section 7. R.S.O. 1960, c. 202, s. 8 (4); 1970, c. 85, s. 6 (2).

Certification  
of councils  
of trade  
unions

9.—(1) Sections 5 to 12 and 106 and 108 apply *mutatis mutandis* to an application for certification by a council of trade unions, but, before the Board certifies such a council as bargaining agent for the employees of an employer in a bargaining unit, the Board shall satisfy itself that each of the trade unions that is a constituent union of the council has vested appropriate authority

in the council to enable it to discharge the responsibilities of a bargaining agent.

(2) Where the Board is of opinion that appropriate authority has not been vested in the applicant, the Board may postpone disposition of the application to enable the constituent unions to vest such additional or other authority as the Board considers necessary.

Postpone-  
ment of  
disposition

(3) For the purposes of sections 7 and 8, a person who is a member of any constituent trade union of a council shall be deemed by the Board to be a member of the council. 1966, c. 76, s. 3.

Member-  
ship

**10.** Where employees of an employer reside on the property of the employer, or on property to which the employer has the right to control access, the employer shall, upon a direction from the Board, allow the representative of a trade union access to the property on which the employees reside for the purpose of attempting to persuade the employees to join a trade union. 1970, c. 85, s. 7.

Right of  
access

**11.** The Board shall not include in a bargaining unit with other employees a person employed as a guard to protect the property of an employer, and no trade union shall be certified as bargaining agent for a bargaining unit of such guards and no employer or employers' organization shall be required to bargain with a trade union on behalf of any person who is a guard if, in either case, the trade union admits to membership or is chartered by, or is affiliated, directly or indirectly, with an organization that admits to membership persons other than guards. 1970, c. 85, s. 8.

Security  
guards

**12.** The Board shall not certify a trade union if any employer or any employers' organization has participated in its formation or administration or has contributed financial or other support to it or if it discriminates against any person because of his race, creed, colour, nationality, ancestry or place of origin. R.S.O. 1960, c. 202, s. 10.

What  
unions not  
to be  
certified

#### NEGOTIATION OF COLLECTIVE AGREEMENTS

**13.** Following certification, the trade union shall give the employer written notice of its desire to bargain with a view to making a collective agreement. R.S.O. 1960, c. 202, s. 11.

Notice of  
desire to  
bargain

**14.** The parties shall meet within fifteen days from the giving of the notice or within such further period as the parties agree upon and they shall bargain in good faith and make every reasonable effort to make a collective agreement. R.S.O. 1960, c. 202, s. 12.

Obligation  
to bargain



Appoint-  
ment of  
conciliation  
officer,  
where notice  
given

**15.**—(1) Where notice has been given under section 13 or 45, the Minister, upon the request of either party, shall appoint a conciliation officer to confer with the parties and endeavour to effect a collective agreement.

Idem, where  
no notice  
given

(2) Notwithstanding the failure of a trade union to give written notice under section 13 or the failure of either party to give written notice under sections 45 and 111, where the parties have met and bargained, the Minister, upon the request of either party, may appoint a conciliation officer to confer with the parties and endeavour to effect a collective agreement.

Idem,  
voluntary  
recognition

(3) Where an employer and a trade union agree that the employer recognizes the trade union as the exclusive bargaining agent of the employees in a defined bargaining unit and the agreement is in writing signed by the parties, the Minister may, upon the request of either party, appoint a conciliation officer to confer with the parties and endeavour to effect a collective agreement.

Second  
conciliation

(4) Notwithstanding anything in this Act, where the Minister has appointed a conciliation officer or a mediator and the parties have failed to enter into a collective agreement within fifteen months from the date of such appointment, the Minister may, upon the joint request of the parties, again appoint a conciliation officer to confer with the parties and endeavour to effect a collective agreement, and, upon such appointment being made, sections 16 to 33 and 63 to 70 apply, but such appointment is not a bar to an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit. 1964, c. 53, s. 2, *part*.

Appoint-  
ment of  
mediator

**16.**—(1) Where the Minister is required or authorized to appoint a conciliation officer, the Minister may, on the request in writing of the parties, appoint a mediator selected by them jointly before he has appointed a conciliation board or has informed the parties that he does not consider it advisable to appoint a conciliation board.

Idem

(2) Where the Minister has appointed a mediator after a conciliation officer has been appointed, the appointment of the conciliation officer is thereby terminated. 1966, c. 76, s. 4.

Duties

**17.**—(1) Where a conciliation officer is appointed, he shall confer with the parties and endeavour to effect a collective agreement and he shall, within fourteen days from his appointment, report the result of his endeavour to the Minister.

Extension  
of 14-day  
period

(2) The period mentioned in subsection 1 may be extended by agreement of the parties or by the Minister upon the advice of the conciliation officer that a collective agreement may be made within a reasonable time if the period is extended. R.S.O. 1960, c. 202, s. 15.

(3) Where the conciliation officer reports to the Minister that the differences between the parties concerning the terms of a collective agreement have been settled, the Minister shall forthwith by notice in writing inform the parties of the report. 1966, c. 76, s. 5.

Report of  
settlement

**18.** If the conciliation officer is unable to effect a collective agreement within the time allowed under section 17,

Conciliation  
board,  
appointment  
of members

- (a) the Minister shall forthwith by notice in writing request each of the parties, within five days of the receipt of the notice, to recommend one person to be a member of a conciliation board, and upon the receipt of the recommendations or upon the expiration of the five-day period he shall appoint two members who in his opinion represent the points of view of the respective parties, and the two members so appointed may, within three days after they are appointed, jointly recommend a third person to be a member and chairman of the board, and upon the receipt of the recommendation or upon the expiration of the three-day period, he shall appoint a third person to be a member and chairman of the board; or

- (b) the Minister shall forthwith by notice in writing inform each of the parties that he does not consider it advisable to appoint a conciliation board. R.S.O. 1960, c. 202, s. 16.

**19.** No person shall act as a member of a conciliation board who has any pecuniary interest in the matters coming before it or who is acting, or has, within a period of six months preceding the date of his appointment, acted as solicitor, counsel or agent of either of the parties. R.S.O. 1960, c. 202, s. 17.

Certain  
persons  
prohibited  
as members

**20.—(1)** When the members of the conciliation board have been appointed, the Minister shall forthwith give notice of their names to the parties and thereupon the board shall be deemed to have been established.

Notice to  
parties of  
appointment

(2) When notice under subsection 1 has been given, it shall be presumed conclusively that the conciliation board has been established in accordance with this Act, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, or otherwise, to question the establishment of the conciliation board or the appointment of any of its members, or to review, prohibit or restrain any of its proceedings. R.S.O. 1960, c. 202, s. 18.

Presumption  
of establish-  
ment

## Vacancies

**21.**—(1) If a person ceases to be a member of a conciliation board by reason of his resignation or death before it has completed its work, the Minister shall appoint a member in his place after consulting the party whose point of view was represented by such person.

Appoint-  
ment of  
new member  
in place  
of member

(2) If in the opinion of the Minister a member of a conciliation board has failed to enter on his duties so as to enable it to report to the Minister within a reasonable time after its appointment, the Minister may appoint a member in his place after consulting the party whose point of view was represented by such person.

Appoint-  
ment of  
new  
chairman

(3) If the chairman of a conciliation board is unable to enter on his duties so as to enable it to report to the Minister within a reasonable time after its appointment, he shall advise the Minister of his inability and the Minister may appoint a person to act as chairman in his place. R.S.O. 1960, c. 202, s. 19.

Terms of  
reference

**22.** As soon as a conciliation board has been established, the Minister shall deliver to its chairman a statement of the matters referred to it and the Minister may, either before or after its report is made, amend or add to the statement. R.S.O. 1960, c. 202, s. 20.

Oath of  
Office

**23.** Each member of a conciliation board shall, before entering upon his duties, take and subscribe before a person authorized to administer oaths or before another member of the board, and file with the Minister, an oath in the following form:

I do solemnly swear that I am not disqualified under section 19 of *The Labour Relations Act* from acting as a member of a conciliation board and that I will faithfully, truly and impartially, to the best of my knowledge, skill and ability, execute and perform the office of member (or chairman) of the conciliation board established to . . . . .  
and that I will not, except as I am legally authorized, disclose to any person any of the evidence or other matter brought before the board. So help me God.

R.S.O. 1960, c. 202, s. 21; 1966, c. 76, s. 6.

## Duties

**24.** As soon as a conciliation board is established, it shall endeavour to effect agreement between the parties on the matters referred to it. R.S.O. 1960, c. 202, s. 22.

## Procedure

**25.**—(1) Subject to this Act, a conciliation board shall determine its own procedure.

Presentation  
of evidence

(2) A conciliation board shall give full opportunity to the parties to present their evidence and make their submissions. R.S.O. 1960, c. 202, s. 23.

## Sittings

**26.** The chairman of a conciliation board shall, after consultation with the other members of the board, fix the time and place of its sittings, and he shall notify the parties and the other members of the board of the time and place so fixed. R.S.O. 1960, c. 202, s. 24.

**27.** The chairman of a conciliation board shall in writing, immediately upon the conclusion of its first sitting, inform the Minister of the date on which the sitting was held. R.S.O. 1960, c. 202, s. 25. Minister to be informed of first sitting

**28.** The chairman and one other member of a conciliation board or, in the absence of the chairman and with his written consent, the other two members constitute a quorum, but, in the absence of one of the members other than the chairman, the other members shall not proceed unless the absent member has been given reasonable notice of the sitting. 1966, c. 76, s. 7. Quorum

**29.** If the members of a conciliation board are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs. R.S.O. 1960, c. 202, s. 27. Casting vote

**30.** A conciliation board has power, Powers

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the board considers requisite to the full investigation and consideration of the matters referred to it in the same manner as a court of record in civil cases;
- (b) to administer oaths;
- (c) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of law or not;
- (d) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the matters referred to the board, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such matters;
- (e) to authorize any person to do anything that the board may do under clause *d* and to report to the board thereon. R.S.O. 1960, c. 202, s. 28.

**31.—**(1) A conciliation board shall report its findings and recommendations to the Minister within thirty days after its first sitting. R.S.O. 1960, c. 202, s. 29 (1). When report to be made

(2) The period mentioned in subsection 1 may be extended, Extension of period

- (a) for a further period not exceeding thirty days,
  - (i) by the Minister at the request of the chairman of the conciliation board, or



(ii) by agreement of the parties; or

(b) for such further period beyond the period fixed in clause *a* as the parties may agree upon and as the Minister may approve. R.S.O. 1960, c. 202, s. 29 (2); 1966, c. 76, s. 8.

Report	(3) The report of the majority constitutes the report of the conciliation board, but, where there is no majority agreement or where the board is unable to report within the time allowed under subsection 1 or 2, the chairman shall notify the Minister in writing that there has been no agreement or that the board is unable to report, as the case may be, and in either of such cases the notification constitutes the report of the board.
Clarification, etc., of report	(4) After a conciliation board has made its report, the Minister may direct it to clarify or amplify any part of its report, and the report shall not be deemed to have been received by the Minister until it has been so clarified or amplified.
Copies of reports to parties	(5) On receipt of the report of the conciliation board or the mediator, the Minister shall forthwith release a copy thereof to each of the parties. R.S.O. 1960, c. 202, s. 29 (3-5).
Duty of mediator	<b>32.</b> —(1) Where a mediator is appointed, he shall confer with the parties and endeavour to effect a collective agreement.
Powers	(2) A mediator has all the powers of a conciliation board under section 30.
Sections 27 and 31 apply	(3) Sections 27 and 31 apply <i>mutatis mutandis</i> to a mediator.
Report	(4) The report of a mediator has the same effect as the report of a conciliation board. R.S.O. 1960, c. 202, s. 30 (1-4).
Failure to report	<b>33.</b> Failure of a conciliation officer to report to the Minister within the time provided in this Act does not invalidate the proceedings of the conciliation officer. R.S.O. 1960, c. 202, s. 31.
Industrial inquiry commission	<b>34.</b> —(1) The Minister may establish an industrial inquiry commission to inquire into and report to the Minister on any industrial matter or dispute that the Minister considers advisable.
Composition and powers	(2) The industrial inquiry commission shall consist of one or more members appointed by the Minister and the commission shall have all the powers of a conciliation board under section 30.
Remunera- tion and expenses	(3) The chairman and members of the commission shall be paid remuneration and expenses at the same rate as is payable to a chairman and members of a conciliation board under this Act. 1970, c. 85, s. 9.

CONTENTS OF COLLECTIVE AGREEMENTS

**35.**—(1) Every collective agreement shall provide that the trade union that is a party thereto is recognized as the exclusive bargaining agent of the employees in the bargaining unit defined therein. R.S.O. 1960, c. 202, s. 32 (1).

Recognition provision

(2) Every collective agreement to which an accredited employers' organization is a party shall provide that the accredited employers' organization is recognized as the exclusive bargaining agent of the employers in the unit of employers for whom the employers' organization has been accredited. 1970, c. 85, s. 10 (1).

Recognition of accredited employers' organization

(3) If a collective agreement does not contain such a provision as is mentioned in subsection 1 or 2, it may be added to the agreement at any time by the Board upon the application of either party. R.S.O. 1960, c. 202, s. 32 (2); 1970, c. 85, s. 10 (2).

Addition by board

**36.**—(1) Every collective agreement shall provide that there will be no strikes or lock-outs so long as the agreement continues to operate. R.S.O. 1960, c. 202, s. 33 (1).

Provision against strikes and lock-outs

(2) If a collective agreement does not contain such a provision as is mentioned in subsection 1, it shall be deemed to contain the following provision:

Statutory provision

“There shall be no strikes or lock-outs so long as this agreement continues to operate.”

1970, c. 85, s. 11.

**37.**—(1) Every collective agreement shall provide for the final and binding settlement by arbitration, without stoppage of work, of all differences between the parties arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable. R.S.O. 1960, c. 202, s. 34 (1).

Arbitration provision

(2) If a collective agreement does not contain such a provision as is mentioned in subsection 1, it shall be deemed to contain the following provision:

Idem

Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, including any question as to whether a matter is arbitrable, or where an allegation is made that this agreement has been violated, either of the parties may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days inform the other party of the name of its appointee to the arbitration board. The two appointees so selected shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator, or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister of Labour for Ontario upon the request of either party. The arbitration

board shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties and upon any employee or employer affected by it. The decision of a majority is the decision of the arbitration board, but if there is no majority the decision of the chairman governs.

R.S.O. 1960, c. 202, s. 34 (2); 1970, c. 85, s. 12 (1).

Where  
arbitration  
provision  
inadequate

(3) If, in the opinion of the Board, any part of the arbitration provision, including the method of appointment of the arbitrator or arbitration board, is inadequate, or if the provision set out in subsection 2 is alleged by either party to be unsuitable, the Board may, on the request of either party, modify the provision so long as it conforms with subsection 1, but, until so modified, the arbitration provision in the collective agreement or in subsection 2, as the case may be, applies.

Appoint-  
ment of  
arbitrator  
by Minister

(4) Notwithstanding subsection 3, if there is failure to appoint an arbitrator or to constitute a board of arbitration under a collective agreement, the Minister, upon the request of either party, may appoint the arbitrator or make such appointments as are necessary to constitute the board of arbitration, as the case may be, and any person so appointed by the Minister shall be deemed to have been appointed in accordance with the collective agreement. R.S.O. 1960, c. 202, s. 34 (3, 4).

Payment of  
arbitrators

(5) Where the Minister has appointed an arbitrator or the chairman of a board of arbitration under subsection 4, each of the parties shall pay one-half the remuneration and expenses of the person appointed, and, where the Minister has appointed a member of a board of arbitration under subsection 4 on failure of one of the parties to make the appointment, that party shall pay the remuneration and expenses of the person appointed. 1966, c. 76, s. 10.

Where  
decision of  
arbitrator  
unduly  
delayed

(6) Where a difference has been submitted to arbitration under this section and a party to the arbitration complains to the Minister that the arbitrator or the arbitration board, as the case may be, has failed to render a decision within a reasonable time, the Minister may, after consulting the parties and the arbitrator or the arbitration board, issue whatever order he considers necessary in the circumstances to ensure that a decision will be rendered in the matter without further undue delay.

Powers of  
arbitrators,  
chairmen of  
arbitration  
boards, and  
arbitration  
boards

(7) An arbitrator or the chairman of an arbitration board, as the case may be, has power,

- (a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath in the same manner as a court of record in civil cases; and

- (b) to administer oaths,

and an arbitrator or an arbitration board, as the case may be, has power,

- (c) to accept such oral or written evidence as the arbitrator or the arbitration board, as the case may be, in its discretion considers proper, whether admissible in a court of law or not;
- (d) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to him or it, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such differences;
- (e) to authorize any person to do anything that the arbitrator or arbitration board may do under clause *d* and to report to the arbitrator or the arbitration board thereon. R.S.O. 1960, c. 202, s. 34 (6, 7).

(8) Where an arbitrator or arbitration board determines that an employee has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject-matter of the arbitration, the arbitrator or arbitration board may substitute such other penalty for the discharge or discipline as to the arbitrator or arbitration board seems just and reasonable in all the circumstances. 1970, c. 85, s. 12 (2).

Substitution  
of penalty

(9) The decision of an arbitrator or of an arbitration board is binding,

Effect of  
arbitrator's  
decision

- (a) upon the parties; and
- (b) in the case of a collective agreement between a trade union and an employers' organization, upon the employers covered by the agreement who are affected by the decision; and
- (c) in the case of a collective agreement between a council of trade unions and an employer or an employers' organization, upon the members or affiliates of the council and the employer or the employers covered by the agreement, as the case may be, who are affected by the decision; and
- (d) upon the employees covered by the agreement who are affected by the decision,

and such parties, employers, trade unions and employees shall do or abstain from doing anything required of them by the decision.

(10) Where a party, employer, trade union or employee has failed to comply with any of the terms of the decision of an arbitrator or arbitration board, any party, employer, trade union or employee affected by the decision may, after the expiration of

Enforce-  
ment of  
arbitration  
decisions



fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision, exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

R.S.O. 1970,  
c. 25 does  
not apply

(11) *The Arbitrations Act* does not apply to arbitrations under collective agreements. R.S.O. 1960, c. 202, s. 34 (8-10).

Permissive  
provisions

**38.**—(1) Notwithstanding anything in this Act, but subject to subsection 4, the parties to a collective agreement may include in it provisions,

- (a) for requiring, as a condition of employment, membership in the trade union that is a party to or is bound by the agreement or granting a preference of employment to members of the trade union, or requiring the payment of dues or contributions to the trade union;
- (b) for permitting an employee who represents the trade union that is a party to or is bound by the agreement to attend to the business of the trade union during working hours without deduction of the time so occupied in the computation of the time worked for the employer and without deduction of wages in respect of the time so occupied;
- (c) for permitting the trade union that is a party to or is bound by the agreement to use the employer's premises for the purposes of the trade union without payment therefor. R.S.O. 1960, c. 202, s. 35 (1).

Where  
non-member  
employee  
cannot be  
required to  
be  
discharged

(2) No trade union that is a party to a collective agreement containing a provision mentioned in clause *a* of subsection 1 shall require the employer to discharge an employee because,

- (a) he has been expelled or suspended from membership in the trade union; or
- (b) membership in the trade union has been denied to or withheld from the employee,

for the reason that the employee,

- (c) was or is a member of another trade union;
- (d) has engaged in activity against the trade union or on behalf of another trade union;
- (e) has engaged in reasonable dissent within the trade union;
- (f) has been discriminated against by the trade union in the application of its membership rules; or

- (g) has refused to pay initiation fees, dues or other assessments to the trade union which are unreasonable. 1970, c. 85, s. 13 (1).

(3) Subsection 2 does not apply to an employee who has engaged in unlawful activity against the trade union mentioned in clause *a* of subsection 1 or an officer, official or agent thereof or whose activity against the trade union or on behalf of another trade union has been instigated or procured by his employer or any person acting on his employer's behalf or whose employer or a person acting on his employer's behalf has participated in such activity or contributed financial or other support to the employee in respect of such activity. R.S.O. 1960, c. 202, s. 35 (3).

Where  
subs. 2  
does not  
apply

(4) A trade union and the employer of the employees concerned shall not enter into a collective agreement that includes provisions requiring, as a condition of employment, membership in the trade union that is a party to or is bound by the agreement unless the trade union has established at the time it entered into the agreement that not less than 65 per cent of the employees in the bargaining unit were members of the trade union, but this subsection does not apply,

Union  
security  
provision  
in first  
agreement

- (a) where the trade union has been certified as the bargaining agent of the employees of the employer in the bargaining unit; or
- (b) where the trade union has been a party to or bound by a collective agreement with the employer for at least one year; or
- (c) where the employer becomes a member of an employers' organization that has entered into a collective agreement with the trade union or council of trade unions containing such a provision and agrees with the trade union or council of trade unions to be bound by such agreement; or
- (d) where the employer and his employees in the bargaining unit are engaged in the construction, alteration, decoration, repair or demolition of a building, structure, road, sewer, water or gas main, pipe line, tunnel, bridge, canal, or other work at the site thereof. R.S.O. 1960, c. 202, s. 35 (4); 1970, c. 85, s. 13 (2).

(5) Notwithstanding anything in this Act, where the parties to a collective agreement have included in it any of the provisions permitted by subsection 1, any of such provisions may be continued in effect during the period when the parties are bargaining with a view to the renewal, with or without modifications, of such agreement or to the making of a new agreement.

Continua-  
tion of  
permissive  
provisions

Idem

(6) Notwithstanding anything in this Act, where the parties to a collective agreement have included in it any of the provisions permitted by subsection 1 and the employer who was a party to or was bound by the agreement sells his business within the meaning of section 55, any of such provisions as were included in the collective agreement may be continued in effect during the period when the person to whom the business was sold and the trade union that is the bargaining agent for his employees in the appropriate bargaining unit by reason of the sale bargain with a view to the making of a new agreement. 1966, c. 76, s. 11 (5, 6).

Religious objections

**39.**—(1) Where the Board is satisfied that an employee because of his religious conviction or belief,

- (a) objects to joining a trade union; or
- (b) objects to the paying of dues or other assessments to a trade union,

the Board may order that the provisions of a collective agreement of the type mentioned in clause *a* of subsection 1 of section 38 do not apply to such employee and that the employee is not required to join the trade union, to be or continue to be a member of the trade union, or to pay any dues, fees or assessments to the trade union, provided that amounts equal to any initiation fees, dues or other assessments are paid by the employee to or are remitted by the employer to a charitable organization mutually agreed upon by the employee and the trade union, but if the employee and the trade union fail to so agree then to such charitable organization registered as a charitable organization in Canada under Part I of the *Income Tax Act* (Canada) as may be designated by the Board.

R.S.C. 1952, c. 148

Application of subs. 1

(2) Subsection 1 applies,

- (a) subject to clause *b*, to employees in the employ of an employer at the time a collective agreement containing a provision of the kind mentioned in subsection 1 is first entered into with that employer and only during the life of such collective agreement; and
- (b) where a collective agreement in force before the 15th day of February, 1971 contains the provision mentioned in subsection 1, to employees in the employ of the employer on the 15th day of February 1971 and only during the life of such collective agreement,

and does not apply to employees whose employment commences after the entering into of the collective agreement when clause *a* applies, or on or after the 15th day of February 1971, when clause *b* applies. 1970, c. 85, s. 14, *amended*.

#### OPERATION OF COLLECTIVE AGREEMENTS

Certain agreements not to be treated as collective agreements

**40.** An agreement between an employer or an employers' organization and a trade union shall be deemed not to be a collective agreement for the purposes of this Act,

- (a) if an employer or an employers' organization participat-

ed in the formation or administration of the trade union or if an employer or an employers' organization contributed financial or other support to the trade union; or

- (b) if it discriminates against any person because of his race, creed, colour, nationality, ancestry or place of origin.
- R.S.O. 1960, c. 202, s. 36.

**41.**—(1) There shall be only one collective agreement at a time between a trade union or council of trade unions and an employer or employers' organization with respect to the employees in the bargaining unit defined in the collective agreement. 1970, c. 85, s. 15.

More than one collective agreement prohibited

(2) Subsection 1 comes into force on the 1st day of July, 1972. 1970, c. 85, s. 42 (2).

Commencement of subs. 1

**42.** A collective agreement is, subject to and for the purposes of this Act, binding upon the employer and upon the trade union that is a party to the agreement whether or not the trade union is certified and upon the employees in the bargaining unit defined in the agreement. R.S.O. 1960, c. 202, s. 37.

Binding effect of collective agreements on employers, trade unions and employees

**43.**—(1) A collective agreement between an employers' organization and a trade union or council of trade unions is, subject to and for the purposes of this Act, binding upon the employers' organization and each person who was a member of the employers' organization at the time the agreement was entered into and on whose behalf the employers' organization bargained with the trade union or council of trade unions as if it was made between each of such persons and the trade union or council of trade unions and upon the employees in the bargaining unit defined in the agreement and, if any such person ceases to be a member of the employers' organization during the term of operation of the agreement, he shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the trade union or council of trade unions. R.S.O. 1960, c. 202, s. 38 (1); 1961-62, c. 68, s. 3, *part*; 1970, c. 85, s. 16 (1).

Binding effect of collective agreements on members of employers' organizations

(2) When an employers' organization commences to bargain with a trade union or council of trade unions, it shall deliver to the trade union, or council of trade unions a list of the names of the employers on whose behalf it is bargaining and, in default of so doing, it shall be deemed to bargain for all members of the employers' organization for whose employees the trade union or council of trade unions is entitled to bargain and to make a collective agreement at that time, except an employer who, either by himself or through the employers' organization, has notified the trade union or council of trade unions in writing before the agreement was entered into that he will not be bound by a collective agreement between the employers' organization and the trade union or council of trade unions. R.S.O. 1960, c. 202, s. 38 (2); 1961-62, c. 68, s. 3, *part*.

Duty to disclose



Binding  
effect of  
collective  
agreements  
on members  
of certified  
councils

(3) A collective agreement between a certified council of trade unions and an employer is, subject to and for the purposes of this Act, binding upon each trade union that is a constituent union of such a council as if it had been made between each of such trade unions and the employer. 1966, c. 76, s. 12 (1).

Binding  
effect of  
collective  
agreements  
on members  
or affiliates  
of councils  
of trade  
unions

(4) A collective agreement between a council of trade unions, other than a certified council of trade unions, and an employer or an employers' organization is, subject to and for the purposes of this Act, binding upon the council of trade unions and each trade union that was a member of or affiliated with the council of trade unions at the time the agreement was entered into and on whose behalf the council of trade unions bargained with the employer or employers' organization as if it was made between each of such trade unions and the employer or employers' organization, and upon the employees in the bargaining unit defined in the agreement and, if any such trade union ceases to be a member of or affiliated with the council of trade unions during the term of operation of the agreement, it shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the employer or employers' organization, as the case may be. R.S.O. 1960, c. 202, s. 38 (3); 1966, c. 76, s. 12 (2); 1970, c. 85, s. 16 (2).

Duty to  
disclose

(5) Where a council of trade unions, other than a certified council of trade unions, commences to bargain with an employer or an employers' organization, it shall deliver to the employer or employers' organization a list of the names of the trade unions on whose behalf it is bargaining and, in default of so doing, it shall be deemed to bargain for all members or affiliates of the council of trade unions for whose employees the respective trade unions are entitled to bargain and to make a collective agreement at that time with the employer or the employers' organization, except a trade union that, either by itself or through the council of trade unions, has notified the employer or employer's organization in writing before the agreement is entered into that it will not be bound by a collective agreement between the council of trade unions and the employer or employers' organization. R.S.O. 1960, c. 202, s. 38 (4); 1966, c. 76, s. 12 (3).

Minimum  
term of  
collective  
agreements

**44.**—(1) If a collective agreement does not provide for its term of operation or provides for its operation for an unspecified term or for a term of less than one year, it shall be deemed to provide for its operation for a term of one year from the date that it commenced to operate.

Extension  
of term  
of  
collective  
agreements

(2) Notwithstanding subsection 1, the parties may, before or after a collective agreement has ceased to operate, agree to continue its operation or any of its provisions for a period of less than one year while they are bargaining for its renewal, with or

without modifications or for a new agreement, but such continued operation does not bar an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit.

(3) A collective agreement shall not be terminated by the parties before it ceases to operate in accordance with its provisions or this Act without the consent of the Board on the joint application of the parties. Early termination of collective agreements

(4) Notwithstanding anything in this section, where an employer joins an employers' organization that is a party to a collective agreement with a trade union or council of trade unions and he agrees with the trade union or council of trade unions to be bound by the collective agreement between the trade union or council of trade unions and the employers' organization, the agreement ceases to be binding upon the employer and the trade union or council of trade unions at the same time as the agreement between the employers' organization and the trade union or council of trade unions ceases to be binding. Idem

(5) Nothing in this section prevents the revision by mutual consent of the parties at any time of any provision of a collective agreement other than a provision relating to its term of operation. R.S.O. 1960, c. 202, s. 39. Revision by mutual consent

**45.**—(1) Either party to a collective agreement may, within the period of ninety days before the agreement ceases to operate, give notice in writing to the other party of its desire to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or to the making of a new agreement. R.S.O. 1960, c. 202, s. 40 (1); 1970, c. 85, s. 17. Notice of desire to bargain for new collective agreement

(2) A notice given by a party to a collective agreement in accordance with provisions in the agreement relating to its termination or renewal shall be deemed to comply with subsection 1. Idem

(3) Where notice is given by or to an employers' organization that has a collective agreement with a trade union or council of trade unions, it shall be deemed to be a notice given by or to each member of the employers' organization who is bound by the agreement or who has ceased to be a member of the employers' organization but has not notified the trade union or council of trade unions in writing that he has ceased to be a member. R.S.O. 1960, c. 202, s. 40 (2, 3). Notice of desire for new collective agreement for employers' organization

(4) Where notice is given by or to a council of trade unions, other than a certified council of trade unions, that has a collective agreement with an employer or employers' organization, it shall be deemed to be a notice given by or to each member or affiliate of the council of trade unions that is bound by the agreement or that Idem

has ceased to be a member or affiliate of the council of trade unions but has not notified the employer or employers' organization in writing that it has ceased to be a member or affiliate. R.S.O. 1960, c. 202, s. 40 (4); 1966, c. 76, s. 13.

Application  
of ss. 14-33

**46.** Sections 14 to 33 apply to the bargaining that follows the giving of a notice under section 45. R.S.O. 1960, c. 202, s. 41.

Dissolution  
of councils  
of certified  
trade unions

**47.—(1)** Where a certified council of trade unions is a party to or is bound by a collective agreement, no resolution, by-law or other action by the constituent unions of a certified council of trade unions to dissolve the council or by a constituent union of such a council to withdraw from the council, as the case may be, has effect,

- (a) unless a copy of such resolution, by-law or other action is delivered to the employer or the employers' organization and, in the case of a withdrawal, to the other constituent members and to the council at least ninety days before the collective agreement ceases to operate; and
- (b) until the collective agreement ceases to operate.

Idem

(2) Where a certified council of trade unions is not a party to or is not bound by a collective agreement, no resolution, by-law or other action by the constituent unions of a certified council of trade unions to dissolve the council or by a constituent union of such a council to withdraw from the council, as the case may be, has effect until the ninetieth day after the day on which a copy of such resolution, by-law or other action is delivered to the employer or the employers' organization and, in the case of a withdrawal, to the other constituent members and to the council. 1966, c. 76, s. 14, *part*.

#### TERMINATION OF BARGAINING RIGHTS

Effect of  
certification

**48.—(1)** If the trade union that applies for certification under subsection 4, 5 or 6 of section 5 is certified as bargaining agent for any of the employees in the bargaining unit defined in the collective agreement, the trade union that was or is a party to the agreement, as the case may be, forthwith ceases to represent the employees in the bargaining unit determined in the certificate and the agreement ceases to operate in so far as it affects such employees. R.S.O. 1960, c. 202, s. 42.

Idem

(2) If the trade union that applies for certification under subsection 2 of section 5 is certified as bargaining agent for any of the employees in the bargaining unit defined in the certificate issued to the trade union that was previously certified, the latter trade union forthwith ceases to represent the employees in the bargaining unit defined in the certificate issued to the former trade union. 1966, c. 76, s. 15.

**49.**—(1) If a trade union does not make a collective agreement with the employer within one year after its certification, any of the employees in the bargaining unit determined in the certificate may, subject to section 53, apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit. R.S.O. 1960, c. 202, s. 43 (1); 1966, c. 76, s. 16 (1).

Application  
for termina-  
tion, no  
agreement

(2) Any of the employees in the bargaining unit defined in a collective agreement may, subject to section 53, apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit,

Idem,  
agreement

- (a) in the case of a collective agreement for a term of not more than three years, only after the commencement of the last two months of its operation;
- (b) in the case of a collective agreement for a term of more than three years, only after the commencement of the thirty-fifth month of its operation and before the commencement of the thirty-seventh month of its operation and during the two-month period immediately preceding the end of each year that the agreement continues to operate thereafter or after the commencement of the last two months of its operation, as the case may be;
- (c) in the case of a collective agreement referred to in clause *a* or *b* that provides that it will continue to operate for any further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or to the making of a new agreement, only during the last two months of each year that it so continues to operate or after the commencement of the last two months of its operation, as the case may be. R.S.O. 1960, c. 202, s. 43 (2); 1966, c. 76, s. 16 (2-4).

(3) Upon an application under subsection 1 or 2, the Board shall ascertain the number of employees in the bargaining unit at the time the application was made and whether not less than 50 per cent of the employees in the bargaining unit have voluntarily signified in writing at such time as is determined under clause *j* of subsection 2 of section 92 that they no longer wish to be represented by the trade union, and, if not less than 50 per cent have so signified, the Board shall, by a representation vote, satisfy itself that a majority of the employees desire that the right of the trade union to bargain on their behalf be terminated. R.S.O. 1960, c. 202, s. 43 (3).

Representa-  
tion vote

(4) If on the taking of the representation vote more than 50 per cent of the ballots cast are cast in opposition to the trade union, the Board shall declare that the trade union that was certified or

Declaration  
of  
termination  
following  
vote



that was or is a party to the collective agreement, as the case may be, no longer represents the employees in the bargaining unit. R.S.O. 1960, c. 202, s. 43 (4); 1970, c. 85, s. 19 (1).

Declaration  
of  
termination  
on aban-  
donment

(5) Upon an application under subsection 1 or 2, where the trade union concerned informs the Board that it does not desire to continue to represent the employees in the bargaining unit, the Board may declare that the trade union no longer represents the employees in the bargaining unit.

Declaration  
to terminate  
agreement

(6) Upon the Board making a declaration under subsection 4 or 5, any collective agreement in operation between the trade union and the employer that is binding upon the employees in the bargaining unit ceases to operate forthwith, R.S.O. 1960, c. 202, s. 43 (6-7).

Where  
certificate  
obtained  
by fraud

**50.** If a trade union has obtained a certificate by fraud, the Board may at any time declare that the trade union no longer represents the employees in the bargaining unit and, upon the making of such a declaration, the trade union is not entitled to claim any rights or privileges flowing from certification and, if it has made a collective agreement binding upon the employees in the bargaining unit, the collective agreement is void. R.S.O. 1960, c. 202, s. 44.

Termination  
for failure  
to give  
notice

**51.**—(1) If a trade union fails to give the employer notice under section 13 within sixty days following certification or if it fails to give notice under section 45 and no such notice is given by the employer, the Board may, upon the application of the employer or of any of the employees in the bargaining unit, and with or without a representation vote, declare that the trade union no longer represents the employees in the bargaining unit. R.S.O. 1960, c. 202, s. 45 (1).

for failure  
to bargain

(2) Where a trade union that has given notice under section 13 or section 45 or that has received notice under section 45 fails to commence to bargain within sixty days from the giving of the notice or, after having commenced to bargain but before the Minister has appointed a conciliation officer or mediator, allows a period of sixty days to elapse during which it has not sought to bargain, the Board may, upon the application of the employer or of any of the employees in the bargaining unit and with or without a representation vote, declare that the trade union no longer represents the employees in the bargaining unit. R.S.O. 1960, c. 202, s. 45 (2); 1964, c. 53, s. 4.

Termination  
of bargain-  
ing rights  
after  
voluntary  
recognition

**52.**—(1) Where an employer and a trade union that has not been certified as the bargaining agent for a bargaining unit of employees of the employer enter into a collective agreement, or a recognition agreement as provided for in subsection 3 of section 15, the Board may, upon the application of any employee in the

bargaining unit or of a trade union representing any employee in the bargaining unit, during the first year of the period of time that the first collective agreement between them is in operation or, if no collective agreement has been entered into, within one year from the signing of such recognition agreement, declare that the trade union was not, at the time the agreement was entered into, entitled to represent the employees in the bargaining unit. 1964, c. 53, s. 5, *part*; 1970, c. 85, s. 20 (1).

(2) Before disposing of an application under subsection 1, the Board may make such inquiry, require the production of such evidence and the doing of such things, or hold such representation votes, as it considers appropriate. Powers of Board before disposing of application

(3) On an application under subsection 1, the onus of establishing that the trade union was entitled to represent the employees in the bargaining unit at the time the agreement was entered into rests on the parties to the agreement. 1964, c. 53, s. 5, *part*. Onus

(4) Upon the Board making a declaration under subsection 1, the trade union forthwith ceases to represent the employees in the defined bargaining unit in the recognition agreement or collective agreement and any collective agreement in operation between the trade union and the employer ceases to operate forthwith in respect of the employees affected by the application. 1970, c. 85, s. 20 (2). Declaration to terminate agreement

#### TIMELINESS OF REPRESENTATION APPLICATIONS

**53.**—(1) Subject to subsection 3, where a trade union has not made a collective agreement within one year after its certification and the Minister has appointed a conciliation officer or a mediator under this Act, no application for certification of a bargaining agent of, or for a declaration that a trade union no longer represents, the employees in the bargaining unit determined in the certificate shall be made until, Application for certification or termination after conciliation

- (a) thirty days have elapsed after the Minister has released to the parties the report of a conciliation board or mediator; or
- (b) thirty days have elapsed after the Minister has released to the parties a notice that he does not consider it advisable to appoint a conciliation board; or
- (c) six months have elapsed after the Minister has released to the parties a notice of a report of the conciliation officer that the differences between the parties concerning the terms of a collective agreement have been settled,

as the case may be. 1966, c. 76, s. 17 (1).

Application  
for certification  
or  
termination  
after  
conciliation

(2) Where notice has been given under section 45 and the Minister has appointed a conciliation officer or a mediator, no application for certification of a bargaining agent of any of the employees in the bargaining units as defined in the collective agreement and no application for a declaration that the trade union that was a party to the collective agreement no longer represents the employees in the bargaining unit as defined in the agreement shall be made after the date when the agreement ceased to operate or the date when the Minister appointed a conciliation officer or a mediator, whichever is later, unless, following the appointment of a conciliation officer or a mediator, if no collective agreement has been made,

- (a) at least twelve months have elapsed from the date of the appointment of the conciliation officer or a mediator; or
- (b) a conciliation board or a mediator has been appointed and thirty days have elapsed after the report of the conciliation board or the mediator has been released by the Minister to the parties; or
- (c) thirty days have elapsed after the Minister has informed the parties that he does not consider it desirable to appoint a conciliation board,

whichever is later. 1964, c. 53, s. 6 (2).

Application  
for  
certification  
or termination  
during  
lawful strike

(3) Where a trade union has given notice under section 13 and the employees in the bargaining unit on whose behalf the trade union was certified as bargaining agent thereafter engage in a lawful strike or the employer lawfully locks out such employees, no application for certification of a bargaining agent of, or for a declaration that the trade union no longer represents, the employees in the bargaining unit determined in the certificate shall be made,

- (a) until six months have elapsed after the strike or lock-out commenced; or
- (b) until seven months have elapsed after the Minister has released to the parties the report of the conciliation board or mediator or a notice that the Minister does not consider it advisable to appoint a conciliation board,

whichever occurs first. 1966, c. 76, s. 17 (2).

Application  
of sub-  
sections 1  
and 3

(4) Subsections 1 and 3 apply *mutatis mutandis* to an application made under subsection 3 of section 5. 1970, c. 85, s. 21.

#### SUCCESSOR RIGHTS

Declaration  
of  
successor  
union

**54.—**(1) Where a trade union claims that by reason of a merger or amalgamation or a transfer of jurisdiction it is the successor of a trade union that at the time of the merger, amalgamation or transfer of jurisdiction was the bargaining agent

of a unit of employees of an employer and any question arises in respect of its rights to act as the successor, the Board, in any proceeding before it or on the application of any person or trade union concerned, may declare that the successor has or has not, as the case may be, acquired the rights, privileges and duties under this Act of its predecessor, or the Board may dismiss the application.

(2) Before issuing a declaration under subsection 1, the Board <sup>Idem</sup> may make such inquiry, require the production of such evidence or hold such representation votes as it considers appropriate.

(3) Where the Board makes an affirmative declaration under subsection 1, the successor shall for the purposes of this Act be conclusively presumed to have acquired the rights, privileges and duties of its predecessor, whether under a collective agreement or otherwise, and the employer, the successor and the employees concerned shall recognize such status in all respects. R.S.O. 1960, c. 202, s. 47. <sup>Idem</sup>

**55.—(1)** In this section,

<sup>Interpre-</sup>  
<sup>tation</sup>

- (a) “business” includes a part or parts thereof;
- (b) “sells” includes leases, transfers and any other manner of disposition, and “sold” and “sale” have corresponding meanings.

(2) Where an employer who is bound by or is a party to a collective agreement with a trade union or council of trade unions sells his business, the person to whom the business has been sold is, until the Board otherwise declares, bound by the collective agreement as if he had been a party thereto and, where an employer sells his business while an application for certification or termination of bargaining rights to which he is a party is before the Board, the person to whom the business has been sold is, until the Board otherwise declares, the employer for the purposes of the application as if he were named as the employer in the application. <sup>Successor employer</sup>

(3) Where an employer on behalf of whose employees a trade union or council of trade unions, as the case may be, has been certified as bargaining agent or has given or is entitled to give notice under section 13, sells his business, the trade union or council of trade unions continues, until the Board otherwise declares, to be the bargaining agent for the employees of the person to whom the business was sold in the like bargaining unit in that business, and the trade union or council of trade unions is entitled to give to the person to whom the business was sold a written notice of its desire to bargain with a view to making a collective agreement and such notice has the same effect as a notice under section 13. <sup>Idem</sup>



Powers of  
Board

(4) Where a business was sold to a person and a trade union or council of trade unions was the bargaining agent of any of the employees in such business or a trade union or council of trade unions is the bargaining agent of the employees in any business carried on by the person to whom the business was sold, and,

- (a) any question arises as to what constitutes the like bargaining unit referred to in subsection 3; or
- (b) any person, trade union or council of trade unions claims that, by virtue of the operation of subsection 2 or 3, a conflict exists between the bargaining rights of the trade union or council of trade unions that represented the employees of the predecessor employer and the trade union or council of trade unions that represents the employees of the person to whom the business was sold,

the Board may, upon the application of any person, trade union or council of trade unions concerned,

- (c) define the composition of the like bargaining unit referred to in subsection 3 with such modification, if any, as the Board considers necessary; and
- (d) amend, to such extent as the Board considers necessary, any bargaining unit in any certificate issued to any trade union or any bargaining unit defined in any collective agreement.

Idem

(5) The Board may, upon the application of any person, trade union or council of trade unions concerned, made within sixty days after the successor employer referred to in subsection 2 becomes bound by the collective agreement, or within sixty days after the trade union or council of trade unions has given a notice under subsection 3, terminate the bargaining rights of the trade union or council of trade unions bound by the collective agreement or that has given notice, as the case may be, if, in the opinion of the Board, the person to whom the business was sold has changed its character so that it is substantially different from the business of the predecessor employer.

Idem

(6) Notwithstanding subsections 2 and 3, where a business was sold to a person who carries on one or more other businesses and a trade union or council of trade unions is the bargaining agent of the employees in any of the businesses and such person intermingles the employees of one of the businesses with those of another of the businesses, the Board may, upon the application of any person, trade union or council of trade unions concerned,

- (a) declare that the person to whom the business was sold is no longer bound by the collective agreement referred to in subsection 2;
- (b) determine whether the employees concerned constitute one or more appropriate bargaining units;

- (c) declare which trade union, trade unions or council of trade unions, if any, shall be the bargaining agent or agents for the employees in such unit or units; and
- (d) amend, to such extent as the Board considers necessary, any certificate issued to any trade union or council of trade unions or any bargaining unit defined in any collective agreement.

(7) Where a trade union or council of trade unions is declared to be the bargaining agent under subsection 6 and it is not already bound by a collective agreement with the successor employer with respect to the employees for whom it is declared to be the bargaining agent, it is entitled to give to the employer a written notice of its desire to bargain with a view to making a collective agreement, and such notice has the same effect as a notice under section 13.

Notice to  
bargain

(8) Before disposing of any application under this section, the Board may make such inquiry, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it considers appropriate.

Powers of  
Board before  
disposing of  
application

(9) Where an application is made under this section, an employer is not required, notwithstanding that a notice has been given by a trade union or council of trade unions, to bargain with that trade union or council of trade unions concerning the employees to whom the application relates until the Board has disposed of the application and has declared which trade union or council of trade unions, if any, has the right to bargain with the employer on behalf of the employees concerned in the application.

Where  
employer not  
required to  
bargain

(10) For the purposes of sections 5, 49, 51, 53 and 112, a notice given by a trade union or council of trade unions under subsection 3 or a declaration made by the Board under subsection 6 has the same effect as a certification under section 7.

Effect of  
notice or  
declaration

(11) Where one or more municipalities as defined in *The Department of Municipal Affairs Act* is erected into another municipality, or two or more such municipalities are amalgamated, united or otherwise joined together, or all or part of one such municipality is annexed, attached or added to another such municipality, the employees of the municipalities concerned shall be deemed to have been intermingled, and,

Successor  
municipalities  
R.S.O. 1970,  
c. 118

- (a) the Board may exercise the like powers as it may exercise under subsections 6 and 8 with respect to the sale of a business under this section;
- (b) the new or enlarged municipality has the like rights and obligations as a person to whom a business is sold under this section and who intermingles the employees of one of his businesses with those of another of his businesses; and

- (c) any trade union or council of trade unions concerned has the like rights and obligations as it would have in the case of the intermingling of employees in two or more businesses under this section.

Power of  
Board to  
determine  
whether  
sale

(12) Where, on any application under this section or in any other proceeding before the Board, a question arises as to whether a business has been sold by one employer to another, the Board shall determine the question and its decision thereon is final and conclusive for the purposes of this Act. 1970, c. 85, s. 22 (1).

#### UNFAIR PRACTICES

Employers,  
etc. not  
to interfere  
with unions

**56.** No employer or employers' organization and no person acting on behalf of an employer or an employers' organization shall participate in or interfere with the formation, selection or administration of a trade union or the representation of employees by a trade union or contribute financial or other support to a trade union, but nothing in this section shall be deemed to deprive an employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence. R.S.O. 1960, c. 202, s. 48.

Unions not  
to interfere  
with  
employers'  
organiza-  
tions

**57.** No trade union and no person acting on behalf of a trade union shall participate in or interfere with the formation or administration of an employers' organization or contribute financial or other support to an employers' organization. R.S.O. 1960, c. 202, s. 49.

Employers  
not to  
interfere  
with  
employees'  
rights

**58.** No employer, employers' organization or person acting on behalf of an employer or an employers' organization,

- (a) shall refuse to employ or to continue to employ a person, or discriminate against a person in regard to employment or any term or condition of employment because the person was or is a member of a trade union or was or is exercising any other rights under this Act;
- (b) shall impose any condition in a contract of employment or propose the imposition of any condition in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of a trade union or exercising any other rights under this Act; or
- (c) shall seek by threat of dismissal, or by any other kind of threat, or by the imposition of a pecuniary or other penalty, or by any other means to compel an employee to become or refrain from becoming or to continue to be or to cease to be a member or officer or representative of a trade union or to cease to exercise any other rights under this Act. R.S.O. 1960, c. 202, s. 50; 1961-62, c. 68, s. 5.

**59.**—(1) No employer, employers' organization or person acting on behalf of an employer or an employers' organization shall, so long as a trade union continues to be entitled to represent the employees in a bargaining unit, bargain with or enter into a collective agreement with any person or another trade union or a council of trade unions on behalf of or purporting, designed or intended to be binding upon the employees in the bargaining unit or any of them.

Employers  
not to  
interfere  
with bar-  
gaining  
rights

(2) No trade union, council of trade unions or person acting on behalf of a trade union or council of trade unions shall, so long as another trade union continues to be entitled to represent the employees in a bargaining unit, bargain with or enter into a collective agreement with an employer or an employers' organization on behalf of or purporting, designed or intended to be binding upon the employees in the bargaining unit or any of them. R.S.O. 1960, c. 202, s. 51.

Trade  
unions  
not to  
interfere  
with  
bargaining  
rights

**60.** A trade union or council of trade unions, so long as it continues to be entitled to represent employees in a bargaining unit, shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees in the unit, whether or not members of the trade union or of any constituent union of the council of trade unions, as the case may be. 1970, c. 85, s. 23.

Duty of fair  
representation  
by  
trade union,  
etc.

**61.** No person, trade union or employers' organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of a trade union or of an employers' organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act. 1966, c. 76, s. 19.

Intimidation  
and coercion

**62.** Nothing in this Act authorizes any person to attempt at the place at which an employee works to persuade him during his working hours to become or refrain from becoming or continuing to be a member of a trade union. R.S.O. 1960, c. 202, s. 53.

Persuasion  
during  
working  
hours

**63.**—(1) Where a collective agreement is in operation, no employee bound by the agreement shall strike and no employer bound by the agreement shall lock out such an employee. R.S.O. 1960, c. 202, s. 54 (1).

Strike or  
lock-out,  
agreement

(2) Where no collective agreement is in operation, no employee shall strike and no employer shall lock out an employee until the Minister has appointed a conciliation officer or a mediator under this Act and,

No  
agreement

- (a) seven days have elapsed after the Minister has released to the parties the report of a conciliation board or mediator; or



- (b) fourteen days have elapsed after the Minister has released to the parties a notice that he does not consider it advisable to appoint a conciliation board,

as the case may be. 1966, c. 76, s. 20.

Threatening  
strike or  
lock-out

(3) No employee shall threaten an unlawful strike and no employer shall threaten an unlawful lock-out of an employee.

Strike or  
ratification  
vote to be  
secret

(4) A strike vote or a vote to ratify a proposed collective agreement taken by a trade union shall be by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed.

Opportunity  
to vote

(5) Any vote mentioned in subsection 4 shall be conducted in such a manner that those entitled to vote have ample opportunity to cast their ballots. 1970, c. 85, s. 24.

Reinstatement  
of  
employee

**64.**—(1) Where an employee engaging in a lawful strike makes an unconditional application in writing to his employer within six months from the commencement of the lawful strike to return to work, the employer shall, subject to subsection 2, reinstate the employee in his former employment, on such terms as the employer and employee may agree upon, and the employer in offering terms of employment shall not discriminate against the employee by reason of his exercising or having exercised any rights under this Act.

Exceptions

(2) An employer is not required to reinstate an employee who has made an application to return to work in accordance with subsection 1,

- (a) where the employer no longer has persons engaged in performing work of the same or similar nature to work which the employee performed prior to his cessation of work; or

- (b) where there has been a suspension or discontinuance for cause of an employer's operations, or any part thereof, but, if the employer resumes such operations, the employer shall first reinstate those employees who have made an application under subsection 1. 1970, c. 85, s. 25.

Unlawful  
strike

**65.** No trade union or council of trade unions shall call or authorize or threaten to call or authorize an unlawful strike and no officer, official or agent of a trade union or council of trade unions shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike. 1970, c. 85, s. 26, *part*.

Unlawful  
lock-out

**66.** No employer or employers' organization shall call or authorize or threaten to call or authorize an unlawful lock-out and

no officer, official or agent of an employer or employers' organization shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out. 1970, c. 85, s. 26, *part*.

**67.**—(1) No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in an unlawful strike or an unlawful lock-out. Causing unlawful strikes, lock-outs

(2) Subsection 1 does not apply to any act done in connection with a lawful strike or lawful lock-out. R.S.O. 1960, c. 202, s. 57. Application of subs. 1

**68.** Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike. R.S.O. 1960, c. 202, s. 58. Saving

**69.** No trade union shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in a strike that is unlawful under this Act. 1966, c. 76, s. 21. Refusal to engage in unlawful strike

**70.**—(1) Where notice has been given under section 13 or section 45 and no collective agreement is in operation, no employer shall, except with the consent of the trade union, alter the rates of wages or any other term or condition of employment or any right, privilege or duty, of the employer, the trade union or the employees, and no trade union shall, except with the consent of the employer, alter any term or condition of employment or any right, privilege or duty of the employer, the trade union or the employees, Working conditions may not be altered

(a) until the Minister has appointed a conciliation officer or a mediator under this Act and,

(i) seven days have elapsed after the Minister has released to the parties the report of a conciliation board or mediator, or

(ii) fourteen days have elapsed after the Minister has released to the parties a notice that he does not consider it advisable to appoint a conciliation board,

as the case may be; or

(b) until the right of the trade union to represent the employees has been terminated,

whichever occurs first. R.S.O. 1960, c. 202, s. 59 (1); 1966, c. 76, s. 22.

Idem

(2) Where a trade union has applied for certification and notice thereof from the Board has been received by the employer, no employer shall, except with the consent of the trade union, alter the rights, privileges or duty of the employer or the employees until,

- (a) the trade union has given notice under section 13, in which case subsection 1 applies; or
- (b) the application for certification by the trade union is dismissed or terminated by the Board, or withdrawn by the trade union. 1970, c. 85, s. 27.

Differences  
may be  
arbitrated

(3) Where notice has been given under section 45 and no collective agreement is in operation, any difference between the parties as to whether or not subsection 1 of this section was complied with may be referred to arbitration by either of the parties as if the collective agreement was still in operation and section 37 applies *mutatis mutandis* thereto. R.S.O. 1960, c. 202, s. 59 (2).

Protection  
of  
witnesses  
rights

**71.**—(1) No employer, employers' organization or person acting on behalf of an employer or employers' organization shall,

- (a) refuse to employ or continue to employ a person;
- (b) threaten dismissal or otherwise threaten a person;
- (c) discriminate against a person in regard to employment or a term or condition of employment; or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

Idem

(2) No trade union, council of trade unions or person acting on behalf of a trade union or council of trade unions shall,

- (a) discriminate against a person in regard to employment or a term or condition of employment; or
- (b) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act. 1961-62, c. 68, s. 6, *part*.

**72.** No person shall wilfully destroy, mutilate, obliterate, alter, deface or remove or cause to be destroyed, mutilated, obliterated, altered, defaced or removed any notice that the Board has required to be posted during the period that the notice is required to be posted. 1961-62, c. 68, s. 6, *part*.

Removal,  
etc., of  
posted  
notices

#### LOCALS UNDER TRUSTEESHIP

**73.**—(1) A provincial, national or international trade union that assumes supervision or control over a subordinate trade union, whereby the autonomy of such subordinate trade union, under the constitution or by-laws of the provincial, national or international trade union is suspended, shall, within sixty days after it has assumed supervision or control over the subordinate trade union, file with the Board a statement in the prescribed form, verified by the affidavit of its principal officers, setting out the terms under which supervision or control is to be exercised and it shall, upon the direction of the Board, file such additional information concerning such supervision and control as the Minister may from time to time require.

Trusteeship  
over local  
unions

(2) Where a provincial, national or international trade union has assumed supervision or control over a subordinate trade union, such supervision or control shall not continue for more than twelve months from the date of such assumption, but such supervision or control may be continued for a further period of twelve months with the consent of the Board. R.S.O. 1960, c. 202, s. 60 (1, 2).

Duration of  
trusteeship

#### INFORMATION

**74.** Each party to a collective agreement shall, forthwith after it is made, file one copy thereof with the Minister. 1966, c. 76, s. 23.

Collective  
agreements  
to be filed

**75.** The Board may direct a trade union, council of trade unions or employers' organization to file with the Board within the time prescribed in the direction a copy of its constitution and by-laws and a statutory declaration of its president or secretary setting forth the names and addresses of its officers. R.S.O. 1960, c. 202, s. 62.

Officers,  
constitution,  
etc.

**76.** Every trade union shall upon the request of any member furnish him, without charge, with a copy of the audited financial statement of its affairs to the end of its last fiscal year certified by its treasurer or other officer responsible for the handling and administration of its funds to be a true copy, and, upon the complaint of any member that the trade union has failed to furnish such a statement to him, the Board may direct the trade union to file with the Registrar, within such time as the Board may determine, a copy of the audited financial statement of its

Duty of  
union to  
furnish  
financial  
statement  
to members



affairs to the end of its last fiscal year verified by the affidavit of its treasurer or other officer responsible for the handling and administration of its funds and to furnish a copy of such statement to such members of the trade union as the Board in its discretion may direct, and the trade union shall comply with such direction according to its terms. R.S.O. 1960, c. 202, s. 63.

Representa-  
tive for  
service of  
process

**77.**—(1) Every trade union and unincorporated employers' organization in Ontario that has members in Ontario shall, on or before the 31st day of December, 1962, or within fifteen days after it has enrolled its first member, whichever is later, file with the Board a notice in the prescribed form giving the name and address of a person resident in Ontario who is authorized by the trade union or unincorporated employers' organization to accept on its behalf service of process and notices under this Act.

Change in  
representative

(2) Whenever a trade union or unincorporated employers' organization changes the authorization referred to in subsection 1, it shall file with the Board notice thereof in the prescribed form within fifteen days after making such change.

Service of  
notice

(3) Service on the person named in a notice or the latest notice, as the case may be, filed under subsection 1 is good and sufficient service for the purposes of this Act on the trade union or unincorporated employers' organization that filed the notice. 1961-62, c. 68, s. 7.

Publications

**78.** Every publication that deals with the relations between employers or employers' organizations and trade unions or employees shall bear the names and addresses of its printer and its publisher. R.S.O. 1960, c. 202, s. 64.

#### ENFORCEMENT

Inquiry  
by field  
officer

**79.**—(1) The Board may authorize a field officer to inquire into a complaint that,

- (a) a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment;
- (b) a person has been suspended, expelled or penalized in any way contrary to section 69; or
- (c) a trade union, council of trade unions, employer, employers' organization, person or persons has acted in any way contrary to section 60, clause *b* of subsection 2 of section 71, subsection 1 or 2 of section 119, or section 120, 121 or 122. 1966, c. 76, s. 24 (1); 1970, c. 85, s. 28 (1).

(2) The field officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter complained of. Duties

(3) The field officer shall report the results of his inquiry and endeavours to the Board. R.S.O. 1960, c. 202, s. 65 (2, 3). Report

(4) Where a field officer is unable to effect a settlement of the matter complained of or where the Board in its discretion considers it advisable to dispense with an inquiry by a field officer, the Board may inquire into the complaint and, Remedy for discrimination

- (a) if the Board is satisfied that the person concerned has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment by any employer or other person or a trade union, it shall determine what, if anything, the employer, other person or trade union shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss of earnings and other employment benefits which compensation may be assessed against the employer, other person or trade union jointly or severally, and the employer, other person or trade union shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or any of them by the determination;
- (b) if the Board is satisfied that the person concerned has been suspended, expelled or penalized in any way contrary to section 69, it shall so declare, and thereupon the suspension, expulsion or penalty is void; or
- (c) if the Board is satisfied that the trade union, council of trade unions, employer, employers' organization, person or employee concerned has acted contrary to section 60, clause *b* of subsection 2 of section 71, subsection 1 or 2 of section 119 or section 120, 121 or 122, it shall determine what, if anything, the trade union, council of trade unions, employer, employers' organization, person or employee, shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the trade union, council of trade unions, employer, employers' organization, person or employee shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or it. 1966, c. 76, s. 24 (2); 1970, c. 85, s. 28 (2, 3).

Enforcement  
of  
determina-  
tion

(5) Where the trade union, council of trade unions, employer, employers' organization, person or employee, has failed to comply with any of the terms of the determination, any trade union, council of trade unions, employer, employers' organization, person or employee, affected by the determination may, after the expiration of fourteen days from the date of the release of the determination or the date provided in the determination for compliance, whichever is later, notify the Board in writing of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the determination, exclusive of the reasons therefor, if any, in the prescribed form, whereupon the determination shall be entered in the same way as a judgment or order of that court and is enforceable as such.

Effect of  
settlement

(6) Where the matter complained of has been settled, whether through the endeavours of the field officer or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the trade union, council of trade unions, employer, employers' organization, person or employee who have agreed to the settlement and shall be complied with according to its terms, and a complaint that the trade union, council of trade unions, employer, employers' organization, person or employee who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause *a, b or c* of subsection 1, as the case may be. 1970, c. 85, s. 28 (4).

"Person"  
defined for  
purposes of  
ss. 71, 79

**80.** For the purposes of section 71 and any complaint made under section 79, "person" includes any person otherwise excluded by subsection 3 of section 1. 1970, c. 85, s. 29.

Jurisdic-  
tional  
disputes

**81.—(1)** The Board may inquire into a complaint that a trade union or council of trade unions, or an officer, official or agent of a trade union or council of trade unions, was or is requiring an employer or an employers' organization to assign particular work to persons in a particular trade union or in a particular trade, craft or class rather than to persons in another trade union or in another trade, craft or class, or that an employer was or is assigning work to persons in a particular trade union rather than to persons in another trade union, and it shall direct what action, if any, the employer, the employers' organization, the trade union or the council of trade unions or any officer, official or agent of any of them or any person shall do or refrain from doing with respect to the assignment of work. 1966, c. 76, s. 25, *part*; 1970, c. 85, s. 30 (1).

Scope of  
Board's  
direction

(2) The Board may in any direction made under subsection 1 provide that it shall be binding on the parties for other jobs then in existence or undertaken in the future in such geographic area as the Board considers advisable. 1970, c. 85, s. 30 (2).

(3) Where a trade union, council of trade unions, employer or employers' organization referred to in subsection 1 of section 124 files a complaint under subsection 1 and if each party affected by the complaint has designated a jurisdictional representative as provided under section 124, the Registrar or such other person as may be designated by the chairman shall immediately notify the respective designated jurisdictional representatives by telephone and telegram of the filing of the complaint.

Notice to jurisdictional representatives

(4) The designated jurisdictional representatives involved shall forthwith meet and endeavour to effect a settlement of the matters complained of and shall report the results of their endeavours to the Board within fourteen days from the day of the filing of the complaint.

Meeting of jurisdictional representatives

(5) Where the designated jurisdictional representatives unanimously agree to a settlement of the matter complained of, it shall be reduced to writing, signed by the respective representatives and filed with the Board within the time set by subsection 4.

Filing of settlement with Board

(6) Where a settlement is filed with the Board under subsection 5, the Board, after such consultation with the designated jurisdictional representatives as it considers advisable in order to clarify the terms of the settlement, shall embody the settlement and any agreed to changes necessary for its clarification in the form of a direction under subsection 1 and shall file it in the prescribed form in the office of the Registrar of the Supreme Court, whereupon the direction shall be entered in the same way as a judgment or order of that court.

Filing of settlement in S.C.O.

(7) Where the designated jurisdictional representatives are notified under subsection 3, the Board shall not, except as provided in subsection 8, proceed with the inquiry referred to in subsection 1 until the expiry of the fourteen-day period referred to in subsection 4. 1970, c. 85, s. 30 (3).

Time of inquiry

(8) Where a complaint is made under subsection 1 and the complainant alleges that a strike is imminent or is taking place by reason of the requirement as to the assignment of work or by reason of the assignment of work, the Board may, after consulting any employer, employers' organization, trade union or council of trade unions that in its opinion is concerned, make such interim order with respect to the assignment of the work as it in its discretion considers proper.

Interim order in case of strike

(9) The Board may in an interim order or direction or at any time after the making of such interim order or direction direct any person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents to cease and desist from doing anything intended or likely to interfere with the terms of an interim order or direction respecting the assignment of work.

Cease and desist directions



Filing in  
S.C.O.

(10) The Board shall file in the office of the Registrar of the Supreme Court a copy of an interim order or direction made under this section, exclusive of the reasons therefor, in the prescribed form, whereupon the interim order or direction shall be entered in the same way as a judgment or order of that Court.

Enforce-  
ment

(11) After an interim order or a direction has been entered, it is enforceable by a person, employee, employer, employers' organization, trade union or council of trade unions affected as a judgment or order of the Supreme Court on the day next after the day fixed for compliance in the interim order or direction.

Withdrawal  
of complaint

(12) A complaint made under this section may be withdrawn by the complainant only upon such terms and conditions as the Board may fix. 1966, c. 76, s. 25, *part*.

Postpone-  
ment of  
inquiry

(13) Where a trade union or a council of trade unions and an employer or an employers' organization have made an arrangement to resolve any differences between them arising from the assignment of work, the Board may, upon such terms and conditions as it may fix, postpone inquiring into a complaint under this section until the difference has been dealt with in accordance with such arrangement. 1966, c. 76, s. 25, *part*; 1970, c. 85, s. 30 (4).

Where no  
complaint  
may be  
made

(14) The Board shall not inquire into a complaint made by a trade union, council of trade unions, employer or employers' organization that has entered into a collective agreement that contains a provision requiring the reference of any difference between them arising out of work assignment to a tribunal mutually selected by them with respect to any difference as to work assignment that can be resolved under the collective agreement, and such trade union, council of trade unions, employer or employers' organization shall do or abstain from doing anything required of it by the decision of such tribunal. 1966, c. 76, s. 25, *part*; 1970, c. 85, s. 30 (5).

Alteration  
of bargain-  
ing unit

(15) The Board may in its discretion, or at any time following the release of its direction, alter the bargaining unit determined in a certificate or defined in a collective agreement as it considers proper, and the certificate or agreement, as the case may be, shall be deemed to have been altered accordingly.

Idem

(16) The Board may, upon the application of any person, employer, trade union, council of trade unions or employers' organization affected by a decision of a tribunal referred to in subsection 14, alter the bargaining unit determined in a certificate or defined in a collective agreement as it considers proper to enable the parties to conform to the decision of the tribunal, and the certificate or agreement, as the case may be, shall be deemed to have been altered accordingly.

(17) Where the Board has made an interim order or a direction under this section, the person, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents affected by the interim order or the direction may comply with it notwithstanding any provision of this Act or of any collective agreement relating to the assignment of the work to which the interim order or the direction relates, and the person, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents so complying shall be deemed not to have violated any provision of this Act or of any collective agreement.

Interim  
orders  
and  
directions  
prevail

(18) Where an employer is a party to or is bound by two or more collective agreements and it appears that the description of the bargaining unit in one of such agreements conflicts with the description of the bargaining unit in the other or another of such agreements, the Board may, upon the application of the employer or any of the trade unions concerned, alter the description of the bargaining units in any such agreement as it considers proper, and the agreement or agreements shall be deemed to have been altered accordingly.

Alteration  
of descrip-  
tion of  
bargaining  
unit in  
conflicting  
agreements

(19) Before disposing of an application under this section, the Board may make such inquiry, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it considers appropriate. 1966, c. 76, s. 25, *part*.

Powers of  
Board  
before  
disposing of  
application

**82.** Where a trade union or a council of trade unions calls or authorizes a strike or employees engage in a strike that the employer or employers' organization concerned alleges was or is unlawful, the employer or employers' organization may apply to the Board for a declaration that the strike was or is unlawful, and the Board may make such declaration. R.S.O. 1960, c. 202, s. 67.

Declaration  
of unlawful  
strikes

**83.** Where an employer or employers' organization calls or authorizes a lock-out that any of the employees or the trade union or the council of trade unions concerned alleges was or is unlawful, any of the employees or the trade union or the council of trade unions may apply to the Board for a declaration that the lock-out was or is unlawful, and the Board may make such declaration. R.S.O. 1960, c. 202, s. 68.

Declaration  
of unlawful  
lock-outs

**84.—(1)** Where the Board declares that a trade union or council of trade unions has called or authorized an unlawful strike or that an employer or employers' organization has called or authorized an unlawful lock-out and no collective agreement is in operation between the trade union or council of trade unions and the employer or employers' organization, as the case may be, the trade union or council of trade unions or employer or employers' organization may, within fifteen days of the release of the Board's

Notice of  
claim for  
damages  
after  
unlawful  
strike or  
lock-out  
where no  
collective  
agreement

declaration, but not thereafter, notify the employer or employers' organization or trade union or council of trade unions, as the case may be, in writing of its intention to claim damages for the unlawful strike or lock-out, and the notice shall contain the name of its appointee to an arbitration board.

Appointment  
of  
arbitration  
board

(2) The recipient of the notice shall within five days inform the sender of the notice of the name of its appointee to the arbitration board.

Idem

(3) The two appointees so selected shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman.

Idem

(4) If the recipient of the notice fails to name an appointee, or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister upon the request of either party.

Decision of  
arbitration  
board

(5) The arbitration board shall hear and determine the claim for damages including any question as to whether the claim is arbitrable and shall issue a decision and the decision is final and binding upon the parties to the arbitration, and,

(a) in the case of a council of trade unions, upon the members of affiliates of the council who are affected by the decision; and

(b) in the case of an employers' organization, upon the employers in the organization who are affected by the decision.

Idem

(6) The decision of a majority is the decision of the arbitration board, but if there is no majority the decision of the chairman governs.

Remunera-  
tion of  
members of  
board

(7) The chairman and members of the arbitration board under this section shall be paid remuneration and expenses at the same rate as is payable to a chairman and members of a conciliation board under this Act, and the parties to the arbitration are jointly and severally liable for the payment of such fees and expenses.

Procedure  
of board

(8) In an arbitration under this section, subsections 5, 6, 7, 10 and 11 of section 37 apply *mutatis mutandis*. 1970, c. 85, s. 31.

Offences

**85.**—(1) Every person, trade union, council of trade unions or employers' organization that contravenes any provision of this Act or of any decision, determination, interim order, order, direction, declaration or ruling made under this Act is guilty of an offence and on summary conviction is liable,

(a) if an individual, to a fine of not more than \$1,000; or

(b) if a corporation, trade union, council of trade unions or employers' organization, to a fine of not more than \$10,000. R.S.O. 1960, c. 202, s. 69 (1); 1961-62, c. 68, s. 9 (1); 1970, c. 85, s. 32.

(2) Each day that a person, trade union, council of trade unions or employers' organization contravenes any provision of this Act or of any decision, determination, interim order, order, direction, declaration or ruling made under this Act constitutes a separate offence. R.S.O. 1960, c. 202, s. 69 (2); 1961-62, c. 68, s. 9 (2). Continued offences

(3) Every fine recovered for an offence under this Act shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1960, c. 202, s. 69 (3). Disposition of fines

**86.** An information in respect of a contravention of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1960, c. 202, s. 70. Information may be in respect of one or more offences

**87.** If a corporation, trade union, council of trade unions or employers' organization is guilty of an offence under this Act, every officer, official or agent thereof who assented to the commission of the offence shall be deemed to be a party to and guilty of the offence. R.S.O. 1960, c. 202, s. 71. Parties

**88.**—(1) A prosecution for an offence under this Act may be instituted against a trade union or council of trade unions or employers' organization in the name of the union, council or organization. Style of prosecution

(2) Any act or thing done or omitted by an officer, official or agent of a trade union or council of trade unions or employers' organization within the scope of his authority to act on behalf of the union, council or organization shall be deemed to be an act or thing done or omitted by the union, council or organization. R.S.O. 1960, c. 202, s. 72. Vicarious responsibility

**89.** Where a trade union, a council of trade unions or an unincorporated employers' organization is affected by a determination of the Board under section 79, an interim order or direction of the Board under section 81 or a direction of the Board under section 123 or a decision of an arbitrator or arbitration board including a decision under section 84, proceedings to enforce the determination, interim order, direction or decision may be instituted in the Supreme Court by or against such union, council or organization in the name of the union, council or organization, as the case may be. 1966, c. 76, s. 26; 1970, c. 85, s. 33. Proceedings in S.C.O.

**90.**—(1) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Board. R.S.O. 1960, c. 202, s. 74 (1). Consent



Information (2) An application for consent to institute a prosecution for an offence under this Act may be made *inter alia* by a trade union, a council of trade unions, a corporation or an employers' organization, and, if the consent is given by the Board, the information may be laid *inter alia* by any officer, official or member of the trade union, council of trade unions, corporation or employers' organization. 1966, c. 76, s. 27.

## ADMINISTRATION

Board,  
continued **91.**—(1) The Ontario Labour Relations Board is continued. R.S.O. 1960, c. 202, s. 75 (1).

composition  
and appoint-  
ment (2) The Board shall be composed of a chairman, one or more vice-chairmen and as many members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 202, s. 75 (2); 1966, c. 76, s. 28 (1).

alternate  
chairman (3) The Lieutenant Governor in Council shall designate one of the vice-chairmen to be the alternate chairman. 1966, c. 76, s. 28 (2).

divisions (4) The chairman or, in the case of his absence from the office of the Board or his inability to act, the alternate chairman shall from time to time assign the members of the Board to its various divisions and may change any such assignment at any time. R.S.O. 1960, c. 202, s. 75 (3); 1966, c. 76, s. 28 (3).

Construc-  
tion  
industry  
division (5) One of the divisions of the Board shall be designated by the chairman as the construction industry division, and it shall exercise the powers of the Board under this Act in proceedings to which sections 106 to 124 apply, but nothing in this subsection impairs the authority of any other division to exercise such powers. 1961-62, c. 68, s. 10 (1); 1970, c. 85, s. 34 (1).

vacancies (6) Vacancies in the membership of the Board from any cause may be filled by the Lieutenant Governor in Council. R.S.O. 1960, c. 202, s. 75 (4).

Resignation  
of member (7) Where a member of the Board resigns, he may carry out and complete any duties or responsibilities and exercise any powers that he would have had if he had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he participated as a member of the Board. 1970, c. 85, s. 34 (2).

oath of  
office (8) Each member of the Board shall, before entering upon his duties, take and subscribe before the Clerk of the Executive Council and file in his office an oath of office in the following form:

I do solemnly swear that I will faithfully, truly and impartially, to the best of my judgment, skill and ability, execute and perform the office of chairman, (or vice-chairman, or member) of the Ontario Labour Rela-

tions Board and I will not, except in the discharge of my duties, disclose to any person any of the evidence or any other matter brought before the Board. So help me God.

R.S.O. 1960, c. 202, s. 75 (5); 1966, c. 76, s. 28 (4).

(9) The chairman or a vice-chairman, one member representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board. R.S.O. 1960, c. 202, s. 75 (6); 1966, c. 76, s. 28 (5).

(10) The Board may sit in two or more divisions simultaneously so long as a quorum of the Board is present in each division. R.S.O. 1960, c. 202, s. 75 (7).

(11) The decision of the majority of the members of the Board present and constituting a quorum is the decision of the Board, but, if there is no majority, the decision of the chairman or vice-chairman governs. 1970, c. 85, s. 34 (3).

(12) The Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable. R.S.O. 1960, c. 202, s. 75 (9); 1961-62, c. 68, s. 10 (2).

(13) The Board may, subject to the approval of the Lieutenant Governor in Council, make rules to expedite proceedings before the Board to which sections 106 to 124 apply, and such rules may provide that, for the purposes of determining the merits of an application for certification to which sections 106 to 108 apply, the Board shall make or cause to be made such examination of records and such other inquiries as it considers necessary, but the Board need not hold a hearing on such an application. 1961-62, c. 68, s. 10 (3); 1964, c. 53, s. 9; 1970, c. 85, s. 34 (4).

(14) The Lieutenant Governor in Council may appoint a registrar, such other officers and such clerks and servants as are required for the purposes of the Board and they shall exercise such powers and perform such duties as are conferred or imposed upon them by the Board.

(15) The members, the other officers and the clerks and servants of the Board shall be paid such remuneration as the Lieutenant Governor in Council may determine.

(16) The Board shall have an official seal.

(17) The office of the Board shall be in Toronto, but the Board may sit at such other places as it considers expedient. R.S.O. 1960, c. 202, s. 75 (10-13).

Powers and  
duties of  
Board,  
general

**92.**—(1) The Board shall exercise such powers and perform such duties as are conferred or imposed upon it by or under this Act. R.S.O. 1960, c. 202, s. 77 (1).

specific

(2) Without limiting the generality of subsection 1, the Board has power,

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Board considers requisite to the full investigation and consideration of matters within its jurisdiction in the same manner as a court of record in civil cases;
- (b) to administer oaths;
- (c) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of law or not;
- (d) to require persons or trade unions, whether or not they are parties to proceedings before the Board, to post and to keep posted upon their premises in a conspicuous place or places, where they are most likely to come to the attention of all persons concerned, any notices that the Board considers necessary to bring to the attention of such persons in connection with any proceedings before the Board;
- (e) to enter any premises where work is being or has been done by the employees or in which the employer carries on business, whether or not the premises are those of the employer, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter and post therein any notice referred to in clause *d*;
- (f) to enter upon the premises of employers and conduct representation votes during working hours and give such directions in connection with the vote as it considers necessary;
- (g) to authorize any person to do anything that the Board may do under clauses *a* to *f* and to report to the Board thereon;
- (h) to authorize the chairman or a vice-chairman to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Board, or any part of any of them, and to report to the Board thereon;
- (i) to bar an unsuccessful applicant for any period not exceeding ten months from the date of the dismissal of the unsuccessful application, or to refuse to entertain a new application by an unsuccessful applicant or by any of the employees affected by an unsuccessful application

or by any person or trade union representing such employees within any period not exceeding ten months from the date of the dismissal of the unsuccessful application;

- (j) to determine the form in which and the time as of which evidence of membership in a trade union or of objection by employees to certification of a trade union or of signification by employees that they no longer wish to be represented by a trade union shall be presented to the Board on an application for certification or for a declaration terminating bargaining rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined;
- (k) to determine the form in which and the time as of which evidence of representation by an employers' organization or of objection by employers to accreditation of an employers' organization or of signification by employers that they no longer wish to be represented by an employers' organization shall be presented to the Board in an application for accreditation or for a declaration terminating bargaining rights of an employers' organization and to refuse to accept any evidence of representation or objection or signification that is not presented in the form and as of the time so determined. R.S.O. 1960, c. 202, s. 77 (2); 1961-62, c. 68, s. 12 (1, 2); 1966, c. 76, s. 30; 1970, c. 85, s. 35 (1).

(3) Notwithstanding sections 5 and 49, where an application has been made for certification of a trade union as bargaining agent for employees in a bargaining unit or for a declaration that the trade union no longer represents the employees in a bargaining unit and a final decision of the application has not been issued by the Board at the time a subsequent application for such certification or for such a declaration is made with respect to any of the employees affected by the original application, the Board may,

Subsequent applications for certification, etc.

- (a) treat the subsequent application as having been made on the date of the making of the original application;
- (b) postpone consideration of the subsequent application until a final decision has been issued on the original application and thereafter consider the subsequent application but subject to any final decision issued by the Board on the original application; or
- (c) refuse to entertain the subsequent application. 1961-62, s. 68, s. 12 (3).

(4) Where the Board is satisfied that a trade union has an established practice of admitting persons to membership without regard to the eligibility requirements of its charter, constitution

Determination of union membership



or by-laws, the Board, in determining whether a person is a member of a trade union, need not have regard for such eligibility requirements. 1970, c. 3, s. 2.

Additional  
votes

(5) Where the Board determines that a representation vote is to be taken amongst the employees in a bargaining unit or voting constituency, the Board may hold such additional representation votes as it considers necessary to determine the true wishes of the employees.

Idem

(6) Where, in the taking of a representation vote, the Board determines that the employees are to be given a choice between two or more trade unions,

- (a) the Board may include on a ballot a choice indicating that an employee does not wish to be represented by a trade union; and
- (b) the Board, when it decides to hold such additional representation votes as may be necessary, may eliminate from the choice on the ballot the choice from the previous ballot that has obtained the lowest number of votes cast. 1970, c. 85, s. 35 (2).

Mistakes  
in names  
of parties

**93.** Where in any proceedings before the Board the Board is satisfied that a *bona fide* mistake has been made with the result that the proper person or trade union has not been named as a party or has been incorrectly named, the Board may order the proper person or trade union to be substituted or added as a party to the proceedings or to be correctly named upon such terms as appear to the Board to be just. R.S.O. 1960, c. 202, s. 78.

Proof of  
status of  
trade union

**94.** Where in any proceeding under this Act the Board has found or finds that an organization of employees is a trade union within the meaning of clause *n* of subsection 1 of section 1, such finding is *prima facie* evidence in any subsequent proceeding under this Act that the organization of employees is a trade union for the purposes of this Act. 1966, c. 76, s. 31.

Jurisdiction

**95.—**(1) The Board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it, and the action or decision of the Board thereon is final and conclusive for all purposes, but nevertheless the Board may at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke any such decision, order, direction, declaration or ruling. 1961-62, c. 68, s. 13 (1).

Idem

(2) If, in the course of bargaining for a collective agreement or during the period of operation of a collective agreement, a question arises as to whether a person is an employee or as to whether a person is a guard, the question may be referred to the

Board and the decision of the Board thereon is final and conclusive for all purposes. R.S.O. 1960, c. 202, s. 79 (2).

(3) Where the Board has authorized the chairman or a vice-chairman to make an inquiry under clause *h* of subsection 2 of section 92, his findings and conclusions on facts are final and conclusive for all purposes, but nevertheless he may, if he considers it advisable to do so, reconsider his findings and conclusions on facts and vary or revoke any such finding or conclusion. 1961-62, c. 68, s. 13 (2); 1966, c. 76, s. 32.

Findings  
of hearing-  
officer  
conclusive

**96.**—(1) Where a request is made under section 15 or subsection 4 of section 37, the Minister may refer to the Board any question that arises that in his opinion relates to his authority to make an appointment under any such provision that is mentioned in the reference, and the Board shall report to the Minister its decision on the question. 1964, c. 53, s. 10.

Reference of  
questions

(2) Where a question referred under subsection 1 involves an issue as to whether one trade union is the successor of another trade union or whether a business has been sold by one employer to another or where such question involves an issue under subsection 11 of section 55, the Board has the same powers and authority as it has under section 54 or 55, as the case may be, as if an application had been made thereunder, and the Board may issue such directions as to the conduct of the proceedings as it considers advisable. 1966, c. 76, s. 33; 1970, c. 85, s. 36.

Idem

**97.** No decision, order, direction, declaration or ruling of the Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, or otherwise, to question, review, prohibit or restrain the Board or any of its proceedings. R.S.O. 1960, c. 202, s. 80.

Board's  
orders not  
subject to  
review

**98.** No member of the Board, nor its registrar, nor any of its other officers, nor any of its clerks or servants shall be required to give testimony in any civil suit respecting information obtained in the discharge of their duties under this Act. R.S.O. 1960, c. 202, s. 81.

Protection  
from being  
called as  
witness

**99.** The production in a court of a document purporting to be or to contain a copy of a decision, determination, report, interim order, order, direction, declaration or ruling of the Board, a conciliation board, a mediator, an arbitrator or an arbitration board and purporting to be signed by a member of the Board or its registrar, the chairman of the conciliation board, the mediator, the arbitrator or the chairman of the arbitration board, as the case may be, is *prima facie* proof of such document without proof of the appointment, authority or signature of the person who signed the document. R.S.O. 1960, c. 202, s. 82; 1966, c. 76, s. 34.

Docu-  
mentary  
evidence

## GENERAL

Secrecy as  
to union  
membership

**100.**—(1) The records of a trade union relating to membership or any records that may disclose whether a person is or is not a member of a trade union or does or does not desire to be represented by a trade union produced in a proceeding before the Board is for the exclusive use of the Board and its officers and shall not, except with the consent of the Board, be disclosed, and no person shall, except with the consent of the Board, be compelled to disclose whether a person is or is not a member of a trade union or does or does not desire to be represented by a trade union. R.S.O. 1960, c. 202, s. 83 (1).

Non-  
disclosure

(2) No information or material furnished to or received by a conciliation officer or a mediator,

(a) under this Act; or

(b) in the course of any endeavour that a conciliation officer may make under the direction of the Minister to effect a collective agreement after the Minister,

(i) has released the report of a conciliation board or a mediator, or

(ii) has informed the parties that he does not consider it advisable to appoint a conciliation board,

shall be disclosed except to the Minister, the Deputy Minister of Labour or the chief conciliation officer of the Department of Labour.

Idem

(3) No report of a conciliation officer shall be disclosed except to the Minister, the Deputy Minister of Labour or the chief conciliation officer of the Department of Labour.

Competency  
as witness

(4) The Minister, the Deputy Minister of Labour, the chief conciliation officer of the Department of Labour or any conciliation officer or mediator appointed under this Act or any person designated by the Minister to endeavour to effect a collective agreement is not a competent or compellable witness in proceedings before a court or other tribunal respecting any information, material or report mentioned in subsection 2 or 3, or respecting any information or material furnished to or received by him, or any statement made to or by him in an endeavour to effect a collective agreement.

Idem

(5) The chairman or any other member of a conciliation board is not a competent or compellable witness in proceedings before a court or other tribunal respecting,

(a) any information or material furnished to or received by him;

(b) any evidence or representation submitted to him; or

(c) any statement made by him,

in the course of his duties under this Act. 1964, c. 53, s. 11.

(6) No information or material furnished to or received by a field officer under this Act and no report of a field officer shall be disclosed except to the Board or as authorized by the Board, and no member of the Board and no field officer is a competent or compellable witness in proceedings before a court or other tribunal respecting any such information, material or report. R.S.O. 1960, c. 202, s. 83 (3); 1961-62, c. 68, s. 14.

Secrecy of  
information  
given field  
officers

**101.** Where an appointment, order or direction is required to be made under this Act by the Minister, he may authorize the Deputy Minister of Labour to make the appointment, order or direction, and a document purporting to be or to contain a copy of such an appointment, order or direction purporting to be signed by the Minister or by the Deputy Minister shall be accepted by any court as evidence of the appointment, order or direction. R.S.O. 1960, c. 202, s. 84.

Delegation  
of Minister's  
powers to  
Deputy  
Minister

**102.—(1)** For the purposes of this Act and of any proceedings taken under it, any notice or communication sent through Her Majesty's mails shall be presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail. R.S.O. 1960, c. 202, s. 85 (1).

Mailed  
notices

(2) An application for certification or accreditation or for a declaration that a trade union or employers' organization no longer represents the employees or employers, as the case may be, in a bargaining unit, if sent by registered mail addressed to the Board at Toronto, shall be deemed to have been made on the date on which it was so mailed. 1970, c. 85, s. 37 (1).

Time of  
making  
certain  
applications

(3) A decision, determination, report, interim order, order, direction, declaration or ruling of the Board, a notice from the Minister that he does not consider it advisable to appoint a conciliation board, a notice from the Minister of a report of a conciliation board or of a mediator, or a decision of an arbitrator or of an arbitration board,

Time of  
release of  
documents

- (a) if sent by mail to the person, employers' organization, trade union or council of trade unions concerned addressed to him or it at his or its last-known address, shall be deemed to have been released on the second day after the day on which it was so mailed; or
- (b) if delivered to a person, employers' organization, trade union or council of trade unions concerned at his or its last-known address, shall be deemed to have been released on the day next after the day on which it was so delivered. 1966, c. 76, s. 35, *part.*

(4) Proof by a person, employers' organization, trade union or council of trade unions of failure to receive a determination under section 79 or an interim order or direction under section 81 or a

Failure  
to receive  
documents  
a defence



direction of the Board under section 123, or a decision of an arbitrator or of an arbitration board including a decision under section 84 sent by mail to such person, employers' organization, trade union or council of trade unions addressed to him or it at his or its last-known address is a defence by such person, employers' organization, trade union or council of trade unions to an application for consent to institute a prosecution or to any proceedings to enforce as a judgment or order of the Supreme Court such determination, interim order, direction or decision. 1966, c. 76, s. 35, *part*; 1970, c. 85, s. 37 (2).

Second  
notice of  
desire to  
bargain

(5) Where a notice has been given under section 45 by registered mail and the addressee claims that he or it has not received the notice, the person, employers' organization, trade union or council of trade unions that gave the notice may give a second notice to the addressee forthwith after he or it ascertains that the first notice had not been received, but in no case may the second notice be given more than three months after the day on which the first notice was mailed, and the second notice has the same force and effect for the purposes of this Act as the first notice would have had if it had been received by the addressee. 1966, c. 76, s. 35, *part*.

Defects in  
form;  
technical  
irregularities

**103.** No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. R.S.O. 1960, c. 202, s. 86.

Administra-  
tion cost

**104.** The expenses incurred in the administration of this Act shall be paid out of the moneys that are appropriated by the Legislature for the purpose. R.S.O. 1960, c. 202, s. 87.

Regulations

**105.** The Lieutenant Governor in Council may make regulations,

- (a) providing for and regulating the engagement of experts, investigators and other assistants by conciliation boards;
- (b) providing for and fixing the remuneration and expenses of chairmen and other members of conciliation boards and mediators;
- (c) requiring the filing with the Department of Labour of awards of arbitrators and arbitration boards;
- (d) requiring the filing with the Superintendent of Insurance of audited financial statements of the affairs of pension or welfare funds operated for the benefit of employees and prescribing the content and form of such statements;

- (e) prescribing forms and providing for their use, including the form in which the documents mentioned in sections 37, 79, 81, 84 and 123 shall be filed in the Supreme Court;
- (f) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. R.S.O. 1960, c. 202, s. 88; 1966, c. 76, s. 36; 1970, c. 85, s. 38, *amended*.

## CONSTRUCTION INDUSTRY

**106.** In this section and in sections 107 to 124,Interpreta-  
tion

- (a) “council of trade unions” means a council that is formed for the purpose of representing or that according to established bargaining practice represents trade unions as defined in clause *f*;
- (b) “employee” includes an employee engaged in whole or in part in off-site work but who is commonly associated in his work or bargaining with on-site employees.
- (c) “employer” means a person who operates a business in the construction industry, and for purposes of an application for accreditation means an employer for whose employees a trade union or council of trade unions affected by the application has bargaining rights in a particular geographic area and sector or areas or sectors or parts thereof;
- (d) “employers’ organization” means an organization that is formed for the purpose of representing or represents employers as defined in clause *c*;
- (e) “sector” means a division of the construction industry as determined by work characteristics and includes the industrial, commercial and institutional sector, the residential sector, the sewers, tunnels and watermains sector, the roads sector, the heavy engineering sector, the pipeline sector and the electrical power systems sector;
- (f) “trade union” means a trade union that according to established trade union practice pertains to the construction industry. 1970, c. 85, s. 39.

**107.** Where there is conflict between any provision in sections 108 to 124 and any provision in sections 5 to 49 and 54 to 105, the provisions in sections 108 to 124 prevail. 1961-62, c. 68, s. 16, *part*; 1966, c. 76, s. 38; 1970, c. 85, s. 40.

Conflict

**108.—(1)** Where a trade union applies for certification as bargaining agent of the employees of an employer, the Board shall determine the unit of employees that is appropriate for collective bargaining by reference to a geographic area and it shall not confine the unit to a particular project.

Bargaining  
units in the  
construc-  
tion  
industry

Determina-  
tion of  
number of  
members in  
bargaining  
unit

(2) In determining whether a trade union to which subsection 1 applies has met the requirements of subsection 2 of section 7, the Board need not have regard to any increase in the number of employees in the bargaining unit after the application was made. 1961-62, c. 68, s. 16, *part*.

Notice of  
desire to  
bargain

**109.**—(1) Where notice has been given by a trade union to an employer under section 13 or by a trade union or a council of trade unions or an employer or employers' organization under section 45, the parties shall meet within five days from the giving of such notice or within such further period as the parties agree upon. 1961-62, c. 68, s. 16, *part*.

Extension  
of 14-day  
period for  
conciliation  
officer's  
report

(2) Where the Minister appoints a conciliation officer or a mediator at the request of a trade union, council of trade unions or an employer or employers' organization to confer with the parties and endeavour to effect a collective agreement binding upon employees of the employer or upon employees of members of the employers' organization, the period mentioned in subsection 1 of section 17 may be extended only by agreement of the parties. 1964, c. 53, s. 12.

Appoint-  
ment of  
conciliation  
board

(3) Where the Minister has appointed a conciliation officer under subsection 2 and the conciliation officer is unable to effect a collective agreement within the time allowed, the Minister shall, unless the parties inform him in writing that they desire him to appoint a conciliation board, forthwith by notice in writing inform each of the parties that he does not consider it advisable to appoint a conciliation board. 1961-62, c. 68, s. 16, *part*; 1966, c. 76, s. 39 (1).

When  
report to  
be made

(4) Where a conciliation board has been appointed under subsection 3, it shall report its findings and recommendations to the Minister within fourteen days after its first sitting, but such period may be extended,

- (a) for a further period not exceeding thirty days by agreement of the parties; or
- (b) for such further period beyond the period fixed in clause a as the parties may agree upon and as the Minister may approve. 1966, c. 76, s. 39 (2).

What  
deemed to  
be a  
collective  
agreement

**110.** An agreement in writing between an employer or employer's organization, on the one hand, and a trade union that has been certified as bargaining agent for a unit of employees of the employer, or a trade union or a council of trade unions that is entitled to require the employer or the employers' organization to bargain with it for the renewal, with or without modifications, of the agreement then in operation or for the making of a new agreement, on the other hand, shall be deemed to be a collective agreement notwithstanding that there were no employees in the bargaining unit or units affected at the time the agreement was entered into. 1961-62, c. 68, s. 16, *part*.

**111.** Each party to a collective agreement between an employer or employers' organization and a trade union or council of trade unions may, within the period of ninety days before the agreement ceases to operate, give notice in writing to the other party of its desire to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or to the making of a new agreement, and any such notice has for all purposes the same effect as a notice under section 45. 1961-62, c. 68, s. 16, *part*; 1964, c. 53, s. 14.

Notice of  
desire to  
bargain  
for new  
collective  
agreement

**112.**—(1) If a trade union does not make a collective agreement with the employer within six months after its certification, any of the employees in the bargaining unit determined in the certificate may apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit.

Application  
for termina-  
tion, no  
agreement

(2) Notwithstanding subsection 2 of section 49, any of the employees in the bargaining unit defined in a first agreement between an employer and a trade union, where the trade union has not been certified as the bargaining agent of the employees of the employer in the bargaining unit, may apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit after the 305th day of its operation and before the 365th day of its operation.

Agreement

(3) Subsection 3 to 6 of section 49 apply to an application under subsection 1 or 2. 1961-62, c. 68, s. 16, *part*.

Application  
of s. 49,  
subss. 3-6

**113.** Where a trade union or council of trade unions has been certified or has been granted voluntary recognition under section 15 as the bargaining agent for a unit of employees of more than one employer in the construction industry or where a trade union or council of trade unions has entered into collective agreements with more than one employer covering a unit of employees in the construction industry, an employers' organization may apply to the Board to be accredited as the bargaining agent for all employers in a particular sector of the industry and in the geographic area described in the said certificates, voluntary recognition documents or collective agreements, as the case may be. 1970, c. 85, s. 41, *part*.

Accredita-  
tion of  
employers'  
organization

**114.**—(1) Upon an application for accreditation, the Board shall determine the unit of employers that is appropriate for collective bargaining in a particular geographic area and sector, but the Board need not confine the unit to one geographic area or sector but may, if it considers it advisable, combine areas or sectors or both or parts thereof.

Board to  
determine  
appropriate-  
ness of unit

(2) The unit of employers shall comprise all employers as defined in clause *c* of section 106 in the geographic area and sector determined by the Board to be appropriate. 1970, c. 85, s. 41, *part*.

Idem



Determinations by Board

**115.**—(1) Upon an application for accreditation, the Board shall ascertain,

- (a) the number of employers in the unit of employers on the date of the making of the application who have within one year prior to such date had employees in their employ for whom the trade union or council of trade unions has bargaining rights in the geographic area and sector determined by the Board to be appropriate;
- (b) the number of employers in clause *a* represented by the employers' organization on the date of the making of the application; and
- (c) the number of employees of employers in clause *a* on the payroll of each such employer for the weekly payroll period immediately preceding the date of the application or if, in the opinion of the Board, such payroll period is unsatisfactory for any one or more of the employers in clause *a*, such other weekly payroll period for any one or more of the said employers as the Board considers advisable.

Accreditation

(2) If the Board is satisfied,

- (a) that a majority of the employers in clause *a* of subsection 1 are represented by the employers' organization; and
- (b) that such majority of employers employed a majority of the employees in clause *c* of subsection 1,

the Board, subject to subsection 3, shall accredit the employers' organization as the bargaining agent of the employers in the unit of employers and for such other employers for whose employees the trade union or council of trade unions may, after the date of the making of the application, obtain bargaining rights through certification or voluntary recognition in the appropriate geographic area and sector.

Authority of employers' organization

(3) Before accrediting an employers' organization under subsection 2, the Board shall satisfy itself that the employers' organization is a properly constituted organization and that each of the employers whom it represents has vested appropriate authority in the organization to enable it to discharge the responsibilities of an accredited bargaining agent.

Idem

(4) Where the Board is of the opinion that appropriate authority has not been vested in the employers' organization, the Board may postpone disposition of the application to enable employers represented by the organization to vest such additional or other authority in the organization as the Board considers necessary.

(5) The Board shall not accredit any employers' organization if any trade union or council of trade unions has participated in its formation or administration or has contributed financial or other support to it or if it discriminates against any person because of his race, creed, colour, nationality, ancestry or place of origin. 1970, c. 85, s. 41, *part.*

What employers' organization not to be accredited

**116.**—(1) Upon accreditation, all rights, duties and obligations under this Act of employers for whom the accredited employers' organization is or becomes the bargaining agent apply *mutatis mutandis* to the accredited employers' organization.

Effect of accreditation

(2) Upon accreditation, any collective agreement in operation between the trade union or council of trade unions and any employer in clause *a* of subsection 1 of section 115 is binding on the parties thereto only for the remainder of the term of operation of the agreement, regardless of any provision therein respecting its renewal.

Effect of accreditation on collective agreements

(3) When any collective agreement mentioned in subsection 2 ceases to operate, the employer shall thereupon be bound by any collective agreement then in existence between the trade union or council of trade unions and the accredited employers' organization or subsequently entered into by the said parties.

Idem

(4) Where, after the date of the making of an application for accreditation, the trade union or council of trade unions obtains bargaining rights for the employees of an employer through certification or voluntary recognition, that employer is bound by any collective agreement in existence at the time of the certification or voluntary recognition between the trade union or council of trade unions and the applicant employers' organization or subsequently entered into by the said parties.

Idem

(5) A collective agreement between a trade union or council of trade unions and an employer who, but for the one-year requirement, would have been included in clause *a* of subsection 1 of section 115 is binding on the parties thereto only for the remainder of the term of operation of the agreement regardless of any provisions therein respecting its renewal.

Idem

(6) When any collective agreement mentioned in subsection 5 ceases to operate, the employer shall thereupon be bound by any collective agreement then in existence between the trade union or council of trade unions and the accredited employers' organization or subsequently entered into by the said parties.

Idem

(7) Where, under the provisions of this section, an employer becomes bound by a collective agreement between a trade union or council of trade unions and an accredited employers' organization after the said agreement has commenced to operate, the agreement ceases to be binding on the employer in accordance with the terms thereof, notwithstanding subsection 1 of section 44. 1970, c. 85, s. 41, *part.*

Application of s. 44 subs. 1

Application  
of s. 43,  
subss. 1, 2

**117.**—(1) Subsections 1 and 2 of section 43 do not apply to an accredited employers' organization.

Binding  
effect of  
collective  
agreement  
on employer

(2) A collective agreement between an accredited employers' organization and a trade union or council of trade unions is, subject to and for the purposes of this Act, binding upon the accredited employers' organization and the trade union or council of trade unions, as the case may be, and upon each employer in the unit of employers represented by the accredited employers' organization at the time the agreement was entered into and upon such other employers as may subsequently be bound by the said agreement, as if it was made between each of such employers and the trade union or council of trade unions and, if any such employer ceases to be represented by the accredited employers' organization during the term of operation of the agreement, the employer shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the trade union or council of trade unions.

Binding  
effect of  
collective  
agreement  
on employees

(3) A collective agreement between an accredited employers' organization and a trade union or council of trade unions is binding on the employees in the bargaining unit defined in the agreement of any employer bound by the collective agreement. 1970, c. 85, s. 41, *part*.

Termination  
of accreditation

**118.**—(1) If an accredited employers' organization does not make a collective agreement with the trade union or council of trade unions, as the case may be, within one year after its accreditation, any of the employers in the unit of employers determined in the accreditation certificate may apply to the Board only during the two months following the said one year for a declaration that the accredited employers' organization no longer represents the employers in the unit of employers.

Idem

(2) Any of the employers in the unit of employers defined in a collective agreement between an accredited employers' organization and a trade union or council of trade unions, as the case may be, may apply to the Board only during the last two months of its operation for a declaration that the accredited employers' organization no longer represents the employers in the unit of employers.

Deter-  
mination by  
Board

(3) Upon an application under subsection 1 or 2, the Board shall ascertain,

- (a) the number of employers in the unit of employers on the date of the making of the application;
- (b) the number of employers in the unit of employers who, within the two-month period immediately preceding the date of the making of the application, have voluntarily signified in writing that they no longer wish to be represented by the accredited employers' organization; and

- (c) the number of employees affected by the application of employers in the unit of employers on the payroll of each such employer for the weekly payroll period immediately preceding the date of the making of the application or if, in the opinion of the Board, such payroll period is unsatisfactory for any one or more of the employers in clause *a*, such other weekly payroll period for any one or more of the said employers as the Board considers advisable.

- (4) If the Board is satisfied,

Declaration  
by Board

- (a) that a majority of the employers in clause *a* of subsection 3 has voluntarily signified in writing that they no longer wish to be represented by the accredited employers' organization; and
- (b) that such majority of employers employed a majority of the employees in clause *c* of subsection 3,

the Board shall declare that the employers' organization that was accredited or that was or is a party to the collective agreement, as the case may be, no longer represents the employers in the unit of employers.

- (5) Upon an application under subsection 1 or 2, when the employers' organization informs the Board that it does not desire to continue to represent the employers in the unit of employers, the Board may declare that the employers' organization no longer represents the employers in the unit.

Declaration  
of termination  
on abandon-  
ment

- (6) Upon the Board making a declaration under subsection 4 or 5,

Effect of  
declaration

- (a) any collective agreement in operation between the trade union or council of trade unions and the employers' organization that is binding upon the employers in the unit of employers ceases to operate forthwith;
- (b) all rights, duties and obligations under this Act of the employers' organization revert *mutatis mutandis* to the individual employers represented by the employers' organization; and
- (c) the trade union or council of trade unions, as the case may be, is entitled to give to any employer in the unit of employers a written notice of its desire to bargain with a view to making a collective agreement, and such notice has the same effect as a notice under section 13. 1970, c. 85, s. 41, *part*.

**119.**—(1) No trade union or council of trade unions that has bargaining rights for employees of employers represented by an accredited employers' organization and no such employer or person acting on behalf of such employer, trade union or council of

Individual  
bargaining  
prohibited



trade unions shall, so long as the accredited employers' organization continues to be entitled to represent the employers in a unit of employers, bargain with each other with respect to such employees or enter into a collective agreement designed or intended to be binding upon such employees and if any such agreement is entered into it is void.

Agreements to provide employees during lawful strike or lock-out prohibited

(2) No trade union or council of trade unions that has bargaining rights for employees of employers represented by an accredited employers' organization and no such employer or person acting on behalf of the employer, trade union or council or trade unions shall, so long as the accredited employers' organization continues to be entitled to represent the employers in a unit of employers, enter into any agreement or understanding, oral or written, that provides for the supply of employees during a legal strike or lock-out, and if any such agreement or understanding is entered into it is void and no such trade union or council of trade unions or person shall supply such employees to the employer.

Saving

(3) Nothing in this Act prohibits an employer, represented by an accredited employers' organization, from continuing or attempting to continue his operations during a strike or lock-out involving employees of employers represented by the accredited employers' organization. 1970, c. 85, s. 41, *part*.

Duty of fair representation by employers' organization

**120.** An accredited employers' organization, so long as it continues to be entitled to represent employers in a unit of employers, shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employers in the unit, whether members of the accredited employers' organization or not. 1970, c. 85, s. 41, *part*.

Membership in employers' organization

**121.** Membership in an accredited employers' organization shall not be denied or terminated except for cause which, in the opinion of the Board, is fair and reasonable. 1970, c. 85, s. 41, *part*.

Fees

**122.** An accredited employers' organization shall not charge, levy or prescribe initiation fees, dues or assessments that, in the opinion of the Board, are unreasonable or discriminatory. 1970, c. 85, s. 41, *part*.

Direction by Board re unlawful strike

**123.**—(1) Where on the complaint of an interested person, trade union, council of trade unions or employers' organization the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened an unlawful strike, or that employees engaged in or threatened to engage in an unlawful

strike, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

(2) Where on the complaint of an interested person, trade union, council of trade unions or employers' organization the Board is satisfied that an employer or employers' organization called or authorized or threatened to call or authorize an unlawful lock-out or locked out or threatened to lock out employees or that an officer, official or agent of an employer or employers' organization counselled or procured or supported or encouraged an unlawful lock-out or threatened an unlawful lock-out, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful lock-out or the threat of an unlawful lock-out.

Direction by Board re unlawful lock-out

(3) The Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under this section, exclusive of the reasons therefor, in the prescribed form, whereupon the direction shall be entered in the same way as a judgment or order of that court. 1970, c. 85, s. 41, *part*.

Enforcement of direction by S.C.O.

**124.**—(1) Every trade union, council of trade unions, employer and employers' organization in the construction industry shall, within fifteen days after it has entered into a collective agreement, file with the Board a notice in the prescribed form giving the name and address of a person resident in Ontario who is authorized by the trade union, council of trade unions, employer or employers' organization to act as a designated jurisdictional representative in the event of a dispute as to the assignment of work.

Designation of jurisdictional representative

(2) Whenever a trade union, council of trade unions, employer or employers' organization changes the authorization referred to in subsection 1, it shall file with the Board notice thereof in the prescribed form within fifteen days after making such change.

Idem

(3) Where a trade union, council of trade unions, employer or employers' organization files a complaint under subsection 1 of section 81 and it has not complied with subsection 1 or 2, it shall file the required notice with the complaint. 1970, c. 85, s. 41, *part*.

Idem



CHAPTER 233

The Lakes and Rivers Improvement Act

INTERPRETATION

- 1.** In this Act, Interpre-  
tation
- (a) “dam” means a dam or other work forwarding, holding back or diverting water;
  - (b) “Department” means the Department of Lands and Forests;
  - (c) “floating of timber” includes transmission of timber;
  - (d) “lake” includes a pond;
  - (e) “Minister” means the Minister of Lands and Forests;
  - (f) “regulations” means the regulations made under this Act;
  - (g) “river” includes a creek and a stream;
  - (h) “timber” includes rafts and crafts, saw logs, posts, ties, cordwood, pulpwood, masts, staves, deals, boards, and all sawed and manufactured lumber. R.S.O. 1960, c. 203, s. 1.

GENERAL PROVISIONS

- 2.**—(1) The Lieutenant Governor in Council may make regu- Regulations  
lations,
- (a) for the safe and orderly floating of timber down lakes and rivers, and for preventing the use of the lakes and rivers for navigation by vessels and boats being unnecessarily impeded or interfered with by the timber;
  - (b) respecting generally the use under this Act of lakes and rivers and waters therein;
  - (c) prescribing penalties for contravention of the regulations.
- (2) The regulations may be general in their application, or be Scope of  
regulations  
applicable to any particular Part of this Act or to any particular lake or river or to any particular dam or work. R.S.O. 1960, c. 203, s. 2.
- 3.** Every person making use of a lake or river upon which Compliance  
with Part  
VI  
works are constructed under this or any other Act for the purpose of floating timber shall comply with the requirements of Part VI as to timber driving. R.S.O. 1960, c. 203, s. 3.



Where  
R.S.O. 1970  
c. 154 applies

**4.—(1)** *The Expropriations Act* applies where anything done under this Act constitutes an expropriation or injurious affection within the meaning of that Act.

Arbitrations

(2) Where under this Act a claim or dispute that does not constitute an expropriation or injurious affection is to be determined by arbitration, a judge of the county or district court of the county or district in which the claim or dispute arises or, in the case of a claim under Part VI, in which the timber in connection with which the claim or part of the claim is made or the greater part of such timber is situate at the time of the service of the notice of claim, shall be the sole arbitrator for such purpose and *The Arbitrations Act* otherwise applies. R.S.O. 1960, c. 203, s. 4.

R.S.O. 1970,  
c. 25

Where com-  
pensation  
for flooding  
or injury by  
dam made  
before grant  
from the  
Crown

**5.** Where land is overflowed or otherwise injured by the maintenance of a dam that was erected before the land was granted by the Crown and the grantee or any person under whom he derived title obtained a reduction in the price of the land on account of, or was otherwise indemnified for, its being overflowed or otherwise injured by the dam, no subsequent owner of the land is entitled to maintain an action against the owner or occupier of the dam for damages for any overflowing or injury to the land due to the continuance of the dam. R.S.O. 1960, c. 203, s. 5.

Restrictions  
upon  
operations

**6.** Nothing in this Act authorizes any person to obstruct any waters already navigable or to collect tolls other than those upon timber. R.S.O. 1960, c. 203, s. 6.

Rights of  
parties as to  
water  
powers  
created

**7.** If, by reason of a dam erected for the floating of timber, any water power is created, the owner of the dam does not have any title or claim to the use of such water power, but, if the owner or occupier of the adjoining land claims compensation for damages arising from such dam, the claim shall be determined by arbitration and the arbitrator may take into account the increased value of his land by reason of the water power so created. R.S.O. 1960, c. 203, s. 7.

No  
liability re  
approvals,  
etc.

**8.** Any person heretofore or hereafter giving any approval or making any recommendation for approval authorized or required under this Act is not liable for any injury, including death, loss or other damage caused by or resulting from the giving of such approval or the making of such recommendation or the doing of or the failure to do any act in connection therewith. 1960-61, c. 43, s. 1.

## PART I

### CONSTRUCTION, REPAIR AND USE OF DAMS

Interpre-  
tation

**9.** In this Part,

(a) "engineer" means an engineer designated by the Minister;

- (b) "owner" means an owner of a dam, and includes the person constructing, maintaining or operating it. R.S.O. 1960, c. 203, s. 8.

**10.**—(1) No person shall construct a dam on any lake or river, Approvals

- (a) until the location of the dam has been approved in writing by the Minister; and
- (b) until the plan and specifications thereof have been approved in writing by the Minister.

(2) An application for approval of the location of a dam shall be made in writing to the Minister and shall be accompanied by, Application for approval of location

- (a) a sketch showing the proposed location of the dam, the area to be flooded and the lands of persons other than the applicant that may be affected by the flooding;
- (b) a statement showing the purpose, size and type of the dam, whether the dam will be of a temporary or permanent nature and the quantity of water, if any, to be taken from the headpond; and
- (c) such other particulars as the Minister may require.

(3) Where it appears expedient in the public interest, the Minister may refuse to give his approval of the location of the dam. Approval of dam

(4) When the location of a dam has been approved by the Minister, an application for approval of the plan and specifications of the dam may be made in writing to the Minister and shall be accompanied by, Application for approval of plans, etc.

- (a) three copies of the plan and specifications and a report showing full details of the construction of the sluice-gates, spillways and other works connected with the dam and the height at which the water is to be held;
- (b) a map showing the location and size of the watershed above the dam, the extreme high water mark and the normal regulated water level;
- (c) particulars as to the nature of the bottom or foundation on which the dam is to be constructed with reports of all boring or test pits; and
- (d) such other particulars as the Minister may require.
- 1962-63, c. 71, s. 1, *part*.

(5) The Minister may approve the plan and specifications of a dam as submitted to him or may approve them with such alterations as he considers advisable, and, without limiting the generality of the foregoing, may require that the dam shall be provided with a fishway that will permit the free and unobstructed passage of fish. Approval of plans of dams

Exception

(6) Nothing in this section prevents or applies to the construction of an emergency dam where such construction is considered necessary for the prevention of loss or damage to property, but in such case the owner shall immediately give notice to the Minister that he is proceeding with the construction of the dam and shall thereafter comply with any directions of the Minister as to the precautions to be taken in maintaining the dam or its removal when the purpose for which it was constructed has been served. 1962-63, c. 71, s. 1, *part*.

Disputes as  
to user

**11.**—(1) Where a dam is under construction or has been constructed on a lake or river and the location or the plan and specifications thereof have not been approved by the Minister or an emergency dam has been constructed and the owner thereof has not given notice to the Minister under section 10, the Minister may appoint an officer or officers with such powers and duties as are considered expedient to be in charge of the lake or river or any works or improvements thereon and to regulate the use of the lake or river or any works or improvements thereon in such manner as seems best calculated to afford to persons having conflicting interests on the lake or river a fair and reasonable use of the waters of the lake or river, but, where any alteration of the level of international boundary waters is involved, such regulation, powers and duties shall conform to any order or recommendation that the International Joint Commission may make under the terms and authority of the International Boundary Waters Treaty between Great Britain and the United States.

Order to  
remove, etc.

(2) The Minister may order the owner of a dam under subsection 1 to repair, reconstruct or remove the dam within the time specified in the order and, upon non-compliance with the order within the time limited, the Minister may do or cause to be done whatever is necessary, and the cost of any such work, as certified by him, is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction. 1962-63, c. 71, s. 1, *part*.

Approval  
of plans  
and speci-  
fications

**12.** Where a dam has heretofore been or is hereafter constructed in a lake or river and it is proposed to make improvements to the dam, the improvements shall not be proceeded with until complete copies of the plans and specifications have been approved by the Minister, and such approval shall be deemed to be of an administrative and not of a legislative nature. R.S.O. 1960, c. 203, s. 10.

Requiring  
production  
of plans on  
report of  
engineer

**13.**—(1) Where a dam has heretofore been or is hereafter constructed in a lake or river and an engineer or other officer of the Department reports that by reason of the construction or condition of the dam water may be held, released or diverted in sufficient volume to cause personal injury or damage to property,

the Minister may require the owner of the dam to furnish within a given time the plans and other particulars mentioned in subsection 4 of section 10. R.S.O. 1960, c. 203, s. 11 (1); 1962-63, c. 71, s. 2.

(2) Upon failure on the part of the owner to furnish such plans and other particulars within the time specified, the Minister may require the engineer to make an examination and report on the dam, and the expenses incurred in making the examination and report is a debt due by the owner to the Crown, and the amount thereof as certified by the Minister is recoverable with costs in any court of competent jurisdiction.

Failure to furnish plans

(3) For the purpose of making the report, the engineer shall have free access to all parts of the dam and to the adjoining or neighbouring lands and to all plans, books, accounts, documents and reports relating to the construction of the dam.

Engineer to have free access

(4) On the report of the engineer, the Minister may make such order as he considers necessary to ensure the safety of the public or of persons whose lands and property may be endangered by the dam, and for such purpose may order the owner to repair, improve, open up or remove it, and may fix the time within which such repairs, improvements, opening up or removal are to be completed.

Order to repair, improve, etc.

(5) Upon non-compliance with the order within the time limited or in case the Minister considers that the repairs, improvements, opening up or removal ordered is immediately required in an emergency, the Minister may do or cause to be done whatever is necessary, and the cost of any such work, as certified by him, is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction.

Effect of non-compliance with order

(6) Where any dam heretofore constructed has not been provided with a fishway, the Minister may direct that the owner of the dam shall forthwith provide a fishway that will permit the free and unobstructed passage of fish up and down stream at any season of the year. R.S.O. 1960, c. 203, s. 11 (2-6).

Direction for fishway to be provided

**14.**—(1) Where water has been impounded for power development or storage purposes, the Minister may order the owner of any dam that impounds the water,

Clearing flooded areas

- (a) to clear timber, slash or debris from the lands that are or were flooded; and
- (b) to remove any timber, slash or debris that has escaped from the flooded lands to any lake or river,

within the time specified in the order.

(2) Where the owner of a dam fails to comply with an order made under subsection 1 within the time specified in the order,

Idem



the Minister may cause to be done whatever is necessary to achieve the result intended by the order, and the cost thereof, as certified by him, is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction. R.S.O. 1960, c. 203, s. 12.

Minister  
may  
authorize  
inspection

**15.**—(1) The Minister may authorize the engineer to inspect or cause an inspection to be made of any dam or other structure or work for the development, improvement or utilization of the waters of any lake or river and report in writing upon the state of repair of the dam or other structure or work.

Repair or  
reconstruction

(2) If the Minister considers it necessary or expedient in the public interest, he may, after the receipt of the report of the engineer, order the owner of the dam or other structure or work to repair, reconstruct or remove the same within the time specified in the order.

Non-compliance  
with order

(3) Where the owner fails to comply with an order made under this section within the time specified in the order, the Minister may cause a plan and description of the site of the dam or other structure or work prepared and signed by an Ontario land surveyor and signed by the Minister to be deposited in the proper registry or land titles office and thereupon such site and the dam or other structure or work and all rights incidental thereto are forfeited to the Crown without it making compensation therefor.

Rights of  
Crown to  
repair, etc.

(4) Where a site and the rights of the owner in a dam or other structure or work have been forfeited to the Crown under this section, the Crown has over the adjoining and neighbouring lands such rights as may be necessary to repair or reconstruct and maintain and operate or to remove the dam or other structure or work. R.S.O. 1960, c. 203, s. 13.

Offences

**16.**—(1) Every person who,

- (a) constructs or maintains a dam in contravention of this Part;
- (b) refuses or neglects to comply with an order, requirement or direction of the Minister made under this Part; or
- (c) hinders or obstructs the engineer in the performance of his duties under this Part, or refuses or neglects to produce any plans, accounts, documents or report relating to the construction of a dam when required by the engineer,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$500, and if after conviction such default continues, such person is liable to a further fine of \$10 for each day upon which the default continues.

(2) The conviction of a person under subsection 1 does not affect his liability for damages or otherwise either at common law or under any statute in force in Ontario. R.S.O. 1960, c. 203, s. 14. Liability not affected by conviction

**17.** All plans, orders and reports furnished or made under this Part shall be kept on file in the Department. R.S.O. 1960, c. 203, s. 15. Plans, etc., to be kept on file in Department

**18.** Where it appears expedient in the public interest, or where a conflict or dispute arises between persons having a right to use a lake or river or any works or other improvements thereon for floating timber or between such persons and any other persons having the right to use a lake or river for any other purpose, the Minister may appoint an officer or officers with such powers and duties as are considered expedient to be in charge of the lake or river or any works or improvements thereon and to regulate the use of the lake or river or any works or improvements thereon in such manner as seems best calculated to afford to persons having diverse interests on the lake or river or in the works or improvements a fair and reasonable use of the waters of the lake or river, but where any alterations of the level of international boundary waters is involved, such regulation, powers and duties shall conform to any order or recommendation that the International Joint Commission may make under the terms and authority of the International Boundary Waters Treaty between Great Britain and the United States. R.S.O. 1960, c. 203, s. 16. Disputes as to user

**19.—(1)** Where a dam or other structure or work has been heretofore or is hereafter constructed on a lake or river and the Minister considers it necessary or expedient in the public interest, he may order the owner of the dam or other structure or work to take such steps within the time specified in the order as may be necessary to maintain the level of the water of the lake or river or to raise or lower such level as the order provides. Regulation of water levels

(2) Where the owner fails to comply with an order made under this section within the time specified in the order, the Minister may cause to be done whatever is necessary to achieve the result intended by the order, and the cost thereof, as certified by him, is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction at the suit of the Treasurer of Ontario. Non-compliance with order

(3) This section does not apply to any lake or river over which the International Joint Commission established under the Boundary Waters Treaty of 1909 or any public authority exercising jurisdiction under the Parliament of Canada or The Lake of the Woods Control Board established under *The Lake of the Woods Control Board Act, 1922* has jurisdiction with respect to the level of the water. R.S.O. 1960, c. 203, s. 17. Where section not to apply  
1922, c. 21

Removal of  
obstructions,  
dams, etc.,  
on order of  
Minister

**20.** Subject to compensation determined by arbitration being made for any damages sustained by reason thereof, the Minister may authorize any engineer, agent, workman or servant employed by or under him to enter into and upon any land and remove any rocks, stones, gravel, slab or timber jam, dam or part of any dam, rubbish of any kind or other obstruction in any lake or river, the removal of which he considers necessary or expedient in the public interest. R.S.O. 1960, c. 203, s. 18, *amended*.

Works out  
of repair

**21.—(1)** A judge of the county or district court of the county or district in which any part of any works used for floating timber is situate, on the complaint of any person interested in the floating of timber down any lake or river, through or over the works upon which tolls are collected, that the works are clearly inadequate by reason of being out of repair, shall appoint an inspector to examine the works and to report on the state of repair thereof.

Order to  
repair

(2) The judge shall, after report of the inspector, order the repairs that are necessary and that shall be made by the owner of the works, and the time by which the repairs shall be made and completed.

When  
person  
interested  
may repair

(3) If the owner does not comply with the order, the person so interested may make the repairs, and the cost thereof, or such portion of them as the judge determines, shall be paid by the owner and is a lien and charge in favour of such person on the works and tolls.

Deposit to  
cover fees

(4) The judge may require the applicant to deposit with the clerk of the court such sum as will, in the opinion of the judge, be sufficient to pay the fees and expenses of the inspector, to be allowed by the judge at a rate of not more than \$10 per day and actual travelling expenses, and such sum, when the works are found to be clearly inadequate by reason of being out of repair, may, in the discretion of the judge, be made a lien or charge in favour of the person paying the same on the works and tolls.

Bond to  
cover costs

(5) The applicant shall, before the application comes on to be heard, file with the judge a bond signed by himself in the sum of \$100 and by two sufficient sureties, who shall duly qualify, each in the sum of \$50, conditioned to pay to the owner such costs connected with the application and subsequent proceedings as the owner may become entitled to.

Notice

(6) Four days notice of the application is sufficient and the notice may be served upon the owner, or, in the case of a company, upon the president, secretary or superintendent, manager or acting manager thereof. R.S.O. 1960, c. 203, s. 19 (1-6).

Costs

(7) The costs incidental to the application shall be upon the county court or small claims court scale, as the judge may direct. R.S.O. 1960, c. 203, s. 19 (7), *amended*.



(8) In this section, “inspector” means a person appointed by the Lieutenant Governor in Council to act as inspector of works constructed for the floating of timber. R.S.O. 1960, c. 203, s. 19 (8). Interpretation

**22.** Where a dam is now or is hereafter erected on or across any lake or river down which timber is usually floated, such dam shall at all times be provided with a slide or apron for the passage of timber of such description and dimensions as are approved by the Minister and such approval shall be deemed to be of an administrative and not of a legislative nature. R.S.O. 1960, c. 203, s. 20. Provision for passage of timber

**23.** Every such apron shall be so constructed and maintained as to afford a depth of water sufficient to admit of the passage over it of such timber as is usually floated down the lake or river on which the dam is erected. R.S.O. 1960, c. 203, s. 21. Apron to admit of timber passing

**24.**—(1) The owner and occupier of a dam who does not provide, maintain and keep in repair a slide or apron thereto in accordance with such description and dimensions as are approved by the Minister under section 22 is guilty of an offence and on summary conviction is liable to a fine of \$50 for each day on which the default occurs or during which it continues. Offence

(2) Where the apron is carried away, destroyed or damaged by flood or otherwise, the owner or occupier of the dam is not liable to the fine provided by subsection 1 if the apron is repaired or reconstructed as soon as the state of the lake or river safely permits. R.S.O. 1960, c. 203, s. 22. Where apron carried away, fine suspended

**25.** The Minister, an engineer and every officer, servant or agent of the Minister has the right, while in the performance of his duties under this Act, to enter into and upon any lands and premises, other than a private dwelling, store, storehouse, office or farm building. 1962-63, c. 71, s. 3. Right to enter on premises

## PART II

### PROCLAMATION CONTROLLING NAMED LAKE OR RIVER

**26.** The Lieutenant Governor in Council may declare that any lake or river is subject to this Part. R.S.O. 1960, c. 203, s. 23. Control by order in council

**27.**—(1) From and after a date named in the declaration made under section 26, all questions arising in relation to the lake or river, Jurisdiction of Minister

- (a) as to the right to construct or use works or improvements thereon;



- (b) as to the respective rights of persons using the lake or river for the purpose of floating timber thereon;
- (c) as to the right to interfere with, alter or obstruct in any manner the flow of the water in the lake or river,

shall be determined by the Minister upon application to him by any of the parties concerned, and after such notice to other parties interested as the Minister may direct, and no action or other proceeding lies or shall be taken in any court with respect to any such matter.

Decision  
final

(2) The order of the Minister given in writing is final and is not subject to appeal.

Enforce-  
ment of  
order of  
Minister

(3) Any such order may be filed in the office of the Registrar of the Supreme Court, or in the office of the local registrar or deputy registrar, and upon being so filed it becomes an order of the Supreme Court and may be enforced in the same manner and by the like process as if it had been made by that court.

Fees on  
filing order

(4) The like fees are payable as upon an order made by a judge of the Supreme Court in the exercise of his ordinary jurisdiction.

Entry of  
order

(5) The order shall be entered in the same manner as a judgment of the court. R.S.O. 1960, c. 203, s. 24.

### PART III

#### PUBLIC RIGHTS IN LAKES AND RIVERS

Application

**28.** This Part is subject to Parts I and II. R.S.O. 1960, c. 203, s. 25.

Right to  
float  
timber

**29.**—(1) Subject to this Part, all persons may float timber down all lakes and rivers during the spring, summer and autumn freshets.

Duty not  
to obstruct

(2) No person shall, by felling trees or placing any other obstruction in or across a lake or river, prevent the floating of timber.

Right to  
remove  
obstructions  
and to  
construct  
works

(3) If it is necessary to remove an obstruction from a lake or river, or to construct a dam, apron, slide, gate, lock, boom or other work therein or thereon in order to facilitate the floating of timber down the lake or river, the person requiring so to float the timber may remove the obstruction, and may construct the dam, apron, slide, gate, lock, boom or other work, doing no unnecessary damage to the lake or river or to its banks.

Right of  
persons  
driving  
timber, etc.,  
to go on  
banks

(4) All persons driving timber down a lake or river have the right to go along the banks of the lake or river for the purpose of assisting and to assist the floating of the timber by all means usual with lumbermen, doing no unnecessary damage to the banks of the lake or river. R.S.O. 1960, c. 203, s. 26.

(5) All persons floating timber down a lake or river shall keep the timber under control and shall recover and remove from the lake or river any timber that drifts out of control or causes an obstruction or hazard in the lake or river.

Duty of  
persons  
driving  
timber

(6) Where the Minister considers it necessary or expedient in the public interest so to do, he may order the owner of or the person who was responsible for driving any timber that has drifted out of control or that has caused an obstruction or hazard in a lake or river to recover and remove the timber within the time specified in the order, and in default thereof the Minister may cause the timber to be recovered and removed, and the cost thereof, as certified by him, is a debt due to the Crown by such owner or person and is recoverable in any court of competent jurisdiction. 1962-63, c. 71, s. 4, *part*.

Obstruc-  
tions, etc.

**30.** A person who has constructed in or upon a lake or river, which was not navigable or floatable before the same was constructed, a dam, apron, slide, gate, lock, boom or other work necessary to facilitate the floating of timber down the lake or river, or blasts rocks or removes shoals or other impediments from or otherwise improves the floatability of the lake or river, does not have the exclusive right to the use of the lake or river or of the works or improvements, but all persons, subject to the payment of tolls fixed under Part V, have the right during the spring, summer and autumn freshets to float timber down the lake or river and through and over such works and improvements, doing no unnecessary damage. R.S.O. 1960, c. 203, s. 27.

Right of  
public to use  
works and  
improve-  
ments

**31.** All the rights conferred by this Part extend and apply to all works and improvements heretofore or hereafter made, on a lake or river, whether the bed of the lake or river has been granted by the Crown or not. R.S.O. 1960, c. 203, s. 28.

Act to apply  
whether  
land  
patented or  
not

**32.**—(1) Where the course of a river enters or widens into a lake or other considerable body of water, every person using the river for the purpose of floating timber shall provide proper and adequate means by a steam tug or otherwise to move his timber across the lake or body of water with expedition.

Moving tim-  
ber across  
lakes, etc.

(2) The Minister may by his order in writing direct the kind of power or appliance that is to be used in moving timber across the lake or body of water from the place of entrance to the outlet.

Minister  
may order  
use of power

(3) Every person who contravenes or neglects to obey the terms of such an order is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. R.S.O. 1960, c. 203, s. 29.

Offence

## OBSTRUCTIONS IN LAKES AND RIVERS

Fine for  
not lopping  
off branches  
of trees, etc.

**33.**—(1) Every person who cuts and fells, and the employer of every person who cuts and fells, any tree into a lake or river down which timber is usually floated, or upon such parts of the banks of it as are usually overflowed in the spring, summer or autumn freshets, without lopping off the branches of the tree and cutting up the trunk into lengths of not more than eighteen feet before the tree is allowed to be floated or cast into the lake or river is guilty of an offence and on summary conviction is liable to a fine of not more than \$10.

Exception

(2) Subsection 1 does not apply to timber prepared for transportation to market. R.S.O. 1960, c. 203, s. 30.

Throwing  
trees, etc.,  
into lake  
or river  
prohibited

**34.** Where an officer of the Department finds that any tree, part of a tree, refuse, substance or matter has been thrown or deposited into a lake or river or on the shores or banks thereof in such a manner as in his opinion impairs the natural beauty of the lake or river, he may, if authorized by the Minister to do so, order the person who committed or caused the commission of such act to take such steps within the time specified in the order as are necessary to remove the tree, part of a tree, refuse, substance or matter from the lake or river or from the shores or banks thereof, and any person who fails to comply with any such order is guilty of an offence and on summary conviction is liable to a fine of \$50 for each day that he does not comply with the order. R.S.O. 1960, c. 203, s. 31.

Interpre-  
tation

**35.** In sections 36 and 37, "mill" means a plant or works in which logs or wood-bolts are processed, and includes a saw mill, a pulp mill, and a pulp and paper mill. R.S.O. 1960, c. 203, s. 32.

Prohibition  
against  
throwing  
refuse into  
lake or  
river, etc.

**36.**—(1) No person shall throw, deposit or discharge, or permit the throwing, depositing or discharging of, any refuse, sawdust, chemical, substance or matter from any mill into a lake or river, or on the shores or banks thereof.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$200.

Non-  
compliance  
with order

(3) Where an officer of the Department finds that any refuse, sawdust, chemical, substance or matter from a mill is being thrown, deposited or discharged into a lake or river, or on the shores or banks thereof, he may, if authorized by the Minister to do so, order the owner or occupier of the mill to cause such throwing, depositing or discharging to cease, and may order, where in his opinion it is practicable to do so, that such owner or occupier take such steps within the time specified in the order as may be necessary to remove the refuse, sawdust, chemical, substance or matter from the lake or river or from the shores or



banks thereof, and any owner or occupier who fails to comply with any such order is guilty of an offence and on summary conviction is liable to a fine of \$50 for each day that he does not comply with the order. R.S.O. 1960, c. 203, s. 33.

#### DISCRETIONARY POWER OF COURT

**37.**—(1) Where in an action or proceeding a person claims, and but for this section would be entitled to, an injunction against the owner or occupier of a mill for an injury or damage, direct or consequential, sustained by such person, or for any interference directly or indirectly with any rights of such person as riparian proprietor or otherwise, by reason or in consequence of the throwing, depositing or discharging, or permitting the throwing, depositing or discharging of any refuse, sawdust, chemical, substance or matter from the mill or from it and other mills into a lake or river, or by reason or in consequence of any odour arising from any such refuse, sawdust, chemical, substance or matter so thrown, deposited or discharged or so permitted to be thrown, deposited or discharged, the court or judge may,

Discretion of court as to granting of injunction in certain cases

- (a) refuse to grant an injunction if it is proved that having regard to all the circumstances and taking into consideration the importance of the operation of the mill to the locality in which it operates and the benefit and advantage, direct and consequential, which the operation of the mill confers on that locality and on the inhabitants of that locality, and weighing the same against the private injury, damage or interference complained of, it is on the whole proper and expedient not to grant the injunction; or
- (b) grant an injunction to take effect after such lapse of time or upon such terms and conditions or subject to such limitations or restrictions as are considered proper; or
- (c) in lieu of granting an injunction, direct that the owner or occupant of the mill take such measures or perform such acts to prevent, avoid, lessen or diminish the injury, damage or interference complained of as are considered proper.

(2) Nothing in subsection 1 affects any right of the person claiming the injunction to damages against the owner or occupier of the mill for any such injury, damage or interference.

Right to damages not affected

(3) Where damage from the same cause continues, the person entitled to the damages may apply from time to time in the same action or proceeding for the assessment of subsequent damages or for any other relief to which by subsequent events he from time to time becomes entitled.

Subsequent damages



Application  
of section

(4) This section applies whether the injury, damage or interference is or is not a continuing one, and whether the person claiming the injunction in the action or proceeding is a plaintiff or is a defendant proceeding by way of counterclaim. R.S.O. 1960, c. 203, s. 34.

## PART IV

### TIMBER SLIDE COMPANIES

Interpre-  
tation

**38.** In this Part,

- (a) “charter” means letters patent of incorporation or articles of incorporation;
- (b) “works” means a dam, slide, pier, boom or other work constructed or proposed to be constructed in or upon a lake or river in order to facilitate the floating of timber down the lake or river and any improvements made or proposed to be made to the floatability of a lake or river by the blasting of rocks or dredging or the removal of shoals or other impediments or otherwise. R.S.O. 1960, c. 203, s. 35, *amended*.

Powers to  
be granted  
to  
companies

**39.** A company may be incorporated under the appropriate general legislation providing for incorporation for the purpose of acquiring or constructing and maintaining and operating works upon a lake or river in Ontario, and every such company thereupon becomes subject to this Part. R.S.O. 1960, c. 203, s. 36, *amended*.

Application  
for  
incorporation

**40.** The application for incorporation shall give,

- (a) a detailed description of the works proposed to be undertaken and an estimate of their cost; and
- (b) an estimate from the best available sources of the quantity of different kinds of timber expected to come down the lake or river yearly after the works have been completed. R.S.O. 1960, c. 203, s. 37, *amended*.

When charter  
may  
be issued

**41.** The charter incorporating a company for any of the purposes mentioned in section 39 shall not be issued until proof has been furnished to the Minister,

- (a) that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated, that such capital has been subscribed or underwritten and that the applicants are likely to command public trust and confidence in the undertaking; and
- (b) that notice of the application for the charter has been served upon all timber licensees and other persons

known to be interested in the works proposed to be constructed,

nor until approval of the proposed work has been obtained under Part I, and the Minister has certified to the Minister issuing the charter that, in his opinion, it is proper that it should be issued. R.S.O. 1960, c. 203, s. 38, *amended*.

**42.** The charter may state a rate of dividend, not exceeding 12 per cent per annum, that the company may pay to the shareholders if the revenues of the company otherwise justify such payment. R.S.O. 1960, c. 203, s. 39, *amended*. Rate of dividend

**43.** The existence of the company may be limited to a term of years, not exceeding twenty-one, to be fixed by the charter. R.S.O. 1960, c. 203, s. 40, *amended*. Limitation of company's existence

**44.** Upon the expiration of the period limited for the existence of the company, all the works constructed by it become the property of Her Majesty for the public uses of Ontario, and shall be under the control of the Department and the company, or the shareholders thereof, have no right to compensation therefor. R.S.O. 1960, c. 203, s. 41. Property vests in the Crown on expiration of company's existence

**45.** Notwithstanding the expiration of the period limited for the existence of the company, it shall continue to exist for the purpose of taking such proceedings as may be requisite for winding up and settling its affairs, and for getting in its assets and distributing them among its shareholders, and the company may, for those purposes, sue and be sued as if the period of its corporate existence had not expired, but after such period the words "in liquidation" shall be added to the name of the company and are a part of its name. R.S.O. 1960, c. 203, s. 42. Company's existence to continue for the purpose of winding up

**46.** No distribution of capital shall be made under section 45 until three years after the expiration of the period limited for the existence of the company, but this does not prevent the distribution among the shareholders of the annual profits received from investments, and after such three years section 153 of *The Business Corporation Act* does not apply. R.S.O. 1960, c. 203, s. 43, *amended*. Distribution of capital and profits R.S.O. 1970, c. 53

**47.** The directors of a company formed under this Part shall annually, in the month of January, make to the Minister a report, verified by the oath of the treasurer of the company, specifying, Yearly report to the Minister

- (a) the cost of the works;
- (b) the amount of all money expended;
- (c) the amount of the capital stock, and the amount paid in;

- (*d*) the whole amount of tolls expended on the works;
- (*e*) the amount received during the year from tolls and all other sources, stating each separately, and distinguishing the tolls on different kinds of timber;
- (*f*) the amount of dividends paid;
- (*g*) the amount expended for repairs;
- (*h*) the amount of the debts due by the company, stating the objects for which they were respectively incurred; and
- (*i*) a detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the following year, together with an estimate of the cost thereof. R.S.O. 1960, c. 203, s. 44.

Books of  
account

**48.** The company shall keep proper books of account containing full and true statements of,

- (*a*) its financial transactions;
- (*b*) its assets;
- (*c*) the sums received and expended by it and the matters in respect of which the receipt or expenditure took place; and
- (*d*) its credits and liabilities,

and such books shall be at all times open to the inspection and examination of any shareholder. R.S.O. 1960, c. 203, s. 45.

Rights of  
expropria-  
tion

**49.** The company has the right to expropriate any land, right or easement requisite for the purpose of its undertaking. R.S.O. 1960, c. 203, s. 46 (1), *amended*.

Interference  
with  
property  
of others

**50.** No company formed under this Part shall construct its works over or upon or otherwise interfere with or injure any private property or the property of Her Majesty, without first having obtained the consent of the owner or occupier thereof, or of Her Majesty, except as is provided in this Part. R.S.O. 1960, c. 203, s. 47.

Compensation  
for  
existing  
works  
taken over

**51.—(1)** If there is already established by any person, other than a company formed under this Part or under any Act of the Legislature, any works on a lake or river for the improvement of which a company is formed under this Part, such company may with the approval of the Minister take possession of the works, and the owners thereof, or, if the works have been constructed on the property of Her Majesty, the person at whose cost they have been constructed, is entitled to compensation for the value of the works, either in money or in stock of the company, at the option of the owner or the person at whose cost the works were constructed,

and may become a shareholder in the company for an amount equal to the value of the works, such value to be ascertained by arbitration.

(2) Where the company purchases or takes possession of the works and does not make or construct any works other than those so acquired, the company shall furnish the Minister with a detailed description of such works and the amount of the purchase price or compensation. R.S.O. 1960, c. 203, s. 48.

Formalities  
to be  
observed by  
company  
acquiring  
existing  
works

**52.**—(1) Nothing in this Act authorizes a company formed under this Part to take possession of or injure any mill site upon which there are existing mills or machinery, or hydraulic works other than those intended to facilitate the passage of timber, and no such company shall commence any work that interferes with or endangers such occupied mill site without the consent in writing of the owner, or unless it is determined by arbitration that the proposed works will not injure such mill site.

Mill sites,  
etc., not to  
be taken  
without  
consent of  
owner

(2) The consent or award shall be registered in the same manner as the instrument of incorporation of the company. R.S.O. 1960, c. 203, s. 49.

Registering  
consent  
or award

**53.**—(1) The company shall, within two years from its incorporation, complete every work undertaken by it and mentioned in the application for the charter, and for the completion of which the company is incorporated, in default of which the company is liable to forfeit the right to all the corporate and other powers and authority that it has acquired, and the Minister of Justice and Attorney General may cause proceedings to be taken in the name of Her Majesty to set aside the charter by serving notice upon the company, and the Lieutenant Governor in Council may, after an opportunity to be heard has been given to the company, declare that its corporate powers cease and determine at a date to be named in the order in council.

Time for  
completion  
of works

(2) From and after that date, all the corporate powers of the company cease and determine unless, prior to the taking of proceedings by the Minister of Justice and Attorney General, further time is granted by the Minister or the completion of the works appears to be unnecessary and is dispensed with by him. R.S.O. 1960, c. 203, s. 50 (1, 2), *amended*.

Cessor of  
corporate  
powers

(3) If in the opinion of the Minister the company has abandoned for one year any works completed by it so that the works are not in sufficient repair and cannot be used for the purpose for which they were undertaken, the Minister may by his order in writing declare that the corporate powers of the company cease and determine to the extent set out in the order. R.S.O. 1960, c. 203, s. 50 (3).

Default in  
completing  
works



When  
companies  
may be  
united

**54.** Any two companies formed for the construction of works on contiguous waters may unite and form one consolidated company on such terms as to them seem meet, and the name of the company to be then assumed shall thenceforth be its corporate name, and letters patent may, subject to the approval of the Minister, be issued to it, and, when issued, the consolidated company may exercise and enjoy all the rights and is subject to all the liabilities of other companies formed under this Part, and which the separate companies had and enjoyed or were subject or liable to before their union. R.S.O. 1960, c. 203, s. 51.

Where the  
Lieutenant  
Governor  
in Council  
may declare  
a company  
dissolved

R.S.O. 1970,  
c. 154

**55.** Where the Lieutenant Governor in Council considers it expedient for the public service, he may declare any company formed under this Part dissolved, and may declare all its works to be public works upon payment to it of the then actual value of the works to be determined in accordance with *The Expropriations Act*. R.S.O. 1960, c. 203, s. 52, *amended*.

Articles  
may  
limit term  
of existence  
of certain  
companies

R.S.O. 1970,  
c. 53

**56.** Where a company incorporated under chapter 153 of the Revised Statutes of Ontario, 1877, or under chapter 68 of the Consolidated Statutes of Canada, 1859, applies for the issue of articles of incorporation under *The Business Corporations Act*, articles of incorporation may, subject to the approval of the Minister, be issued conferring upon the company any of the powers authorized by this Part, and by such articles the term of existence of the company may be limited and the company is subject to this Part. R.S.O. 1960, c. 203, s. 53, *amended*.

Extension  
of existence  
of company

**57.—(1)** The term of existence of a company incorporated for a limited period may be extended for such a number of years as the Lieutenant Governor in Council, before the expiry of such period, may direct.

Extension of  
charter after  
expiry of  
term of  
company's  
existence

**(2)** Where the term of existence of a company incorporated for a limited period has expired but the company has continued to carry on business and it appears to the Lieutenant Governor in Council that the company has acted in good faith, the Lieutenant Governor in Council, notwithstanding the expiry of such period, may, by amendment to its charter, extend the term of existence of the company as from the date of the expiry, and thereupon the company shall be deemed to have continued in existence from such date and the works constructed by the company shall not be deemed to have become the property of Her Majesty, but to have remained vested in the company for the period named in such amendment to the charter.

Amendment  
of charter  
for  
extensions  
or improve-  
ments

**(3)** Where any extension or improvement of the works or any new works proposed to be undertaken are approved by the Minister, the charter may be amended authorizing the construction of the extension or improvement or the new works, as the case may be. R.S.O. 1960, c. 203, s. 54, *amended*.

## PART V

## TOLLS

**58.** In this Part,

Interpre-  
tation

- (a) “operator” means the owner or occupier of the works;
- (b) “works” means works as defined in Part IV that have been constructed. R.S.O. 1960, c. 203, s. 55.

**59.** The operator may demand and receive the lawful tolls upon all timber passing through or over his works, and shall have free access to such timber for the purpose of measuring or counting it. R.S.O. 1960, c. 203, s. 56.

Right  
to tolls

**60.**—(1) In each year, before the 1st day of March, the operator shall publish once a week for four successive weeks in a newspaper published in the county or district in which the works are situate, a schedule of the tolls proposed to be charged, together with a notice stating that on a day and hour named he will apply to a judge of such county or district for the approval of such tolls.

Publication  
of schedule  
of tolls

(2) Before publishing the schedule of tolls, the operator shall apply to a judge of such county or district to fix the time for the hearing of the application so that it may be inserted in the notice, and the judge shall at the time so fixed hear the application and approve of the schedule of tolls after making such changes therein as he thinks proper.

Time for  
hearing  
application

(3) In fixing the tolls, the judge shall have regard to and take into consideration the original cost of the works and improvements, the amount required to maintain them and to cover interest upon the original cost, as well as such other matters as under all the circumstances are considered just and equitable.

Basis on  
which tolls  
to be fixed

(4) The judge may on the hearing require the production of all books of account of the operator for the purpose of ascertaining the state of the affairs of the operator, and may, if he thinks it necessary, appoint some person to inspect such books and make a report to him on the affairs of the operator for the purpose of determining the tolls that should be charged.

Production  
of books of  
account

(5) The schedule of tolls as approved by the judge are final and binding and there is no appeal from his decision.

No appeal

(6) If the schedule of tolls is amended, then the tolls as so amended shall be published once a week for two successive weeks in a newspaper published in the county or district in which the works are situate.

Publication  
of tolls as  
approved

(7) The operator shall forthwith after the schedule of tolls has been approved by the judge send a copy of it certified by the judge to the Minister so that it may be filed in the Department, and, on

Copy of  
tolls to be  
sent to  
Department

failure to do so, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1960, c. 203, s. 57.

Demanding  
of owner  
statement  
of quantity  
of timber  
liable to toll

**61.**—(1) The operator may demand from the owner of any timber intended to be passed over or through any part of the works, or from the person in charge of the timber, a written statement of the quantity of every kind of timber and of its destination, and of the parts of the works over or through which it is intended to pass, and if no written statement is given when required, or if a false statement is given, the whole of the timber, or such part of it as has been omitted by a false statement, is liable to double toll.

When false  
estimate is  
given as to  
quantity  
liable to toll,  
extra tolls  
may be  
collected

(2) If any owner or person in charge of such timber knowingly or wilfully returns a larger quantity than it is his intention to pass over or through the works, the operator is entitled, in addition to any other remedy he may have, to collect tolls on the difference between the quantity so falsely estimated and the quantity actually passing over or through the works. R.S.O. 1960, c. 203, s. 58.

May sue  
for tolls

**62.** If the tolls are not paid on demand, they may be recovered by action. R.S.O. 1960, c. 203, s. 59.

Tolls to be  
apportioned  
to the ex-  
tent of the  
works used

**63.** If timber has come through or over part only of the works, the owner of the timber is liable to pay tolls only for such parts of the whole works as he has made use of if, in the schedule of tolls, the works are divided into parts, and if not, to pay such a portion of the whole tolls as the distance the timber has come through or over the works bears to the whole distance for which the works extend. R.S.O. 1960, c. 203, s. 60.

Lien of  
operator  
for tolls

**64.**—(1) The operator has a lien upon the timber passing through or over the works for the amount of the tolls, ranking next after the lien of the Crown for dues in respect of the timber.

Seizure of  
timber for  
tolls

(2) If the tolls are not paid, any justice of the peace having jurisdiction within or adjoining the locality in which the works are situate, upon the oath of the operator or of his agent being made that the just tolls have not been paid, shall issue a warrant for the seizure of the timber or so much of it as he considers sufficient to satisfy the tolls.

Warrant to  
seize and  
proceedings  
thereon

(3) The warrant may be directed to any constable or to any person sworn as a special constable for that purpose at the discretion of the justice, and it shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date of the warrant, to sell the timber subject to any lien of the Crown for dues, and out of the proceeds to pay the tolls, together with the costs of the warrant and sale, rendering the surplus on demand to the owner.



(4) A warrant shall not be issued after the expiration of one month from the time of the passage of the timber through or over any of the works. R.S.O. 1960, c. 203, s. 61. When  
warrant not  
to be issued

**65.**—(1) The operator may make rules for regulating the safe and orderly floating of timber over or through the works, but no such rules have any force or effect until approved by the Minister who may alter or amend them before giving his approval, and the Minister may revoke and cancel any rules so made and approved, and from time to time approve of new rules which the operator may make. Rules by  
operator

(2) Every person who resists or impedes the operator or any of his servants in the floating of timber through or over any such works, or in carrying out any such rules or resists him or his servants who may require access to any timber to ascertain the just tolls thereon, or in any way molests him or his servants in the exercise of any rights conferred upon them by this Part, is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$10. Offence

(3) In any prosecution under this section, the summons may be served either personally or by leaving a copy of it at the usual place of abode of the person named in it or with any adult person belonging to the raft to which the person named is attached. Service of  
summons

(4) The fines when collected shall be paid to the operator for his own use. R.S.O. 1960, c. 203, s. 62. Disposition  
of fines

## PART VI

### DRIVING OF TIMBER

**66.** Any person putting or causing to be put timber into any water for the purpose of floating it in, upon or down the water shall make adequate provision and put on a sufficient force of men to break, and shall make all reasonable endeavours to break, jams of the timber and clear the timber from the banks and shores of the water with reasonable dispatch, and shall run and drive the timber so as not unnecessarily to delay or hinder the removal, floating, running or driving of other timber or unnecessarily to obstruct the floating or navigation of the water. R.S.O. 1960, c. 203, s. 63. Duty of  
persons  
floating  
timber not  
to obstruct  
navigation

**67.** If any person neglects to comply with section 66, it is lawful for any other person desiring to float, run or drive timber in, upon or down such water, and whose timber would be obstructed by such jams, to cause them to be broken and the timber to be cleared from the banks and shores of the water, and to be floated, run and driven in, upon or down the water. R.S.O. 1960, c. 203, s. 64. Right of  
other  
persons  
obstructed  
to clear



Duty and  
lien of  
persons  
clearing  
obstruction

**68.**—(1) The person who causes the jams to be broken or timber to be cleared, floated, run or driven, under section 67, shall do it with reasonable economy and dispatch, and shall take reasonable care not to leave timber on the banks or shores, and he has a lien upon the timber in the jams or upon the timber so cleared, floated, run or driven for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of the timber, and may take and keep possession of it or so much thereof as is reasonably necessary to satisfy the amount of such charges and expenses pending the determination thereof by arbitration.

Idem

(2) The person taking possession of timber under this section shall use all reasonable care not to take it beyond the place of its original destination, if known, but may securely boom and keep possession of it at or above such place.

Notifying  
owner

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and, if satisfactory security is given for the amount of such charges and expenses, possession of the timber shall be given up. R.S.O. 1960, c. 203, s. 65.

Provision  
when timber  
of several  
owners  
cannot  
conveniently  
be separated

**69.** When timber of any person upon or in any water or the banks or shores of the water are so intermixed with timber of another person that it cannot be conveniently separated for the purpose of being floated in, upon or down the water, the several persons owning or controlling the intermixed timber shall respectively make adequate provision and put on a fair proportion of the men required to break jams of the intermixed timber, and to clear it from the banks and shores of the water with reasonable dispatch, and to float, run and drive it in, upon or down the water, and the costs and expenses thereof shall be borne by the parties in such proportions as they agree upon, and, in default of agreement, as are determined by arbitration. R.S.O. 1960, c. 203, s. 66.

Provision  
when owner  
of any  
portion of  
timber is  
in default

**70.** If any person neglects to comply with section 69, it is lawful for any other person whose timber is intermixed to put on a sufficient number of men to supply the deficiency and break jams of the intermixed timber and to clear it from the banks and shores of the water, and to float, run and drive all the intermixed timber in, upon or down the water. R.S.O. 1960, c. 203, s. 67.

Duty and  
lien of  
person  
supplying  
deficiency

**71.**—(1) The person supplying such deficiency and causing such jams to be broken, or such intermixed timber to be cleared, floated, run or driven, pursuant to section 70, shall do it with reasonable economy and dispatch, and shall take reasonable care not to leave timber on the banks or shores, and he has a lien upon the timber owned or controlled by the person guilty of such neglect for a fair proportion of the charges and expenses of

breaking the jams, and the clearing, floating, running, driving, booming and keeping possession of such intermixed timber, and may take and keep possession of such timber or so much thereof as is reasonably necessary to satisfy the amount of such fair proportion of such charges and expenses pending the determination of the amount by arbitration.

(2) The person taking possession of timber under this section shall use all reasonable care not to take it beyond the place of its original destination, if known, but may securely boom and keep possession of it at or above such place.

Duty of holder

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and, if satisfactory security is given for the amount of such proportion of charges and expenses, possession of the timber shall be given up. R.S.O. 1960, c. 203, s. 68.

Notifying owner

**72.** Where timber of any person upon or in any water or the banks or shores of the water is intermixed with timber of another person, any of the persons whose timber is intermixed may at any time during the drive require his timber to be separated from the other timber at some suitable and convenient place, and after such separation he shall secure his timber at his own cost and expense in such manner as to allow free passage for the other timber, but when any timber reaches its place of original destination, if known, so intermixed, it shall be there separated from the other timber, and after such separation each owner shall secure his timber at his own cost and expense. R.S.O. 1960, c. 203, s. 69.

Right of owner to separation of timber

**73.** The several persons owning or controlling the intermixed timber shall respectively make adequate provision and put on a fair proportion of the men required to make the separation, and the cost and expense of such separation shall be borne by the parties in such proportions as they agree upon, and, in default of agreement, as are determined by arbitration. R.S.O. 1960, c. 203, s. 70.

Expenses of separation to be shared

**74.—**(1) If any person neglects to comply with section 73, it is lawful for any other person whose timber is intermixed to put on a sufficient number of men to supply the deficiency, and the timber owned or controlled by the person guilty of such neglect is subject to a lien in favour of the person supplying the deficiency for a fair proportion of the charges and expenses of making the separation, and for the reasonable charges and expenses of booming and keeping possession, and such person may take and keep possession of such timber or so much thereof as is reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending determination of the amount by arbitration.

When owner does not provide for his share of work

Duty of holder

(2) The person taking possession of timber under this section shall use all reasonable care not to take it beyond the place of its original destination, if known, but may securely boom and keep possession of it at or above such place.

Notifying owner

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and, if satisfactory security is given for the amount of such proportion of charges and expenses, possession of the timber shall be given up. R.S.O. 1960, c. 203, s. 71.

Form of security

**75.** The security referred to in sections 68, 71 and 74 may be by bond in Form 1 or by deposit of money, or in such other way as the parties agree upon. R.S.O. 1960, c. 203, s. 72.

Damages when timber wrongfully detained

**76.** If it is determined by arbitration that any person acting under the assumed authority of this Part has without just cause taken possession of or detained or caused to be taken possession of or detained timber of another person, or has after offer of security that the arbitrator thinks should have been accepted, detained such timber, or has through want of reasonable care left timber of another person on the banks or shores of a lake or river, or has taken timber of another person beyond the place of its original destination contrary to sections 68, 71 and 74, such first-mentioned person shall pay to such last-mentioned person such damages as the arbitrator determines. R.S.O. 1960, c. 203, s. 73.

Lien under ss. 68, 71 and 74, subject to lien for tolls

**77.** The lien given by sections 68, 71 and 74 is subject to the lien, if any, of any person for tolls for the use of any works or improvements made use of in running or driving timber. R.S.O. 1960, c. 203, s. 74.

Rights of Crown not affected

**78.** Nothing in this Part affects the lien or rights of the Crown upon or in respect of any timber. R.S.O. 1960, c. 203, s. 75.

Arbitration

**79.** All claims, disputes and differences arising from any act or omission under this Part or by reason of failure to perform any duty or obligation imposed by this Part shall be determined by arbitration and not by action. R.S.O. 1960, c. 203, s. 76.

Notice of claim

**80.** The person claiming that another person has not complied with this Part, or claiming payment of any charges or expenses under this Part, or claiming a lien upon any timber, or claiming damages under section 76, shall give to such other person notice in writing stating the substance and amount of the claims made. R.S.O. 1960, c. 203, s. 77.

Counter-claim

**81.** The person on whom a claim is made, at any time before the arbitration is entered upon or with leave of the arbitrator during the arbitration, may give the claimant notice in writing by



way of counterclaim, stating the substance of any claim arising under this Part that such person may have against the claimant, and such counterclaim, unless barred under section 84, shall be determined in the arbitration. R.S.O. 1960, c. 203, s. 78.

**82.**—(1) The person having a lien upon timber by virtue of this Part may with the approval of the arbitrator sell the timber or a sufficient part thereof in order to realize the amount of the lien, and of the costs, charges and expenses connected with the sale. Sale by person having lien

(2) The arbitrator shall determine either by the award or by a separate document the time, place and manner of the sale, and may from time to time give directions in writing respecting the sale and the realization of the lien and of the costs, charges and expenses connected therewith. R.S.O. 1960, c. 203, s. 79. Direction by arbitrator

**83.** The award and directions in writing of the arbitrator are final and binding and are not subject to appeal. R.S.O. 1960, c. 203, s. 80. Finality of award

**84.**—(1) All claims arising under this Part shall be made within one year after they have arisen, otherwise they shall be barred, but in the event of such claims arising between the same parties in two successive seasons, they shall be so made within one year after the last of such claims has arisen. Limitation of time for making claims

(2) Where a claim is submitted to arbitration and a counterclaim is set up, the counterclaim shall be deemed to have been brought at the date of the service of the claim. R.S.O. 1960, c. 203, s. 81. Counter-claim

**85.** The Lieutenant Governor in Council may from time to time declare that any part of Ontario or any water therein is, until further declaration, exempt from the operation of this Part, and thereupon the same is exempt accordingly. R.S.O. 1960, c. 203, s. 82. Exemption of territory from operation of Part

**86.** Any part of Ontario or any water exempted by declaration from the operation of this Part may, by declaration, be again brought within its operation until further declaration, and so on from time to time. R.S.O. 1960, c. 203, s. 83. Bringing exempted territory again under Part

## PART VII

### WATER PRIVILEGES

**87.** This Part is subject to Parts I and II. R.S.O. 1960, Application c. 203, s. 84.



Interpre-  
tation

**88.** In this Part, "occupied water privilege" means a mill privilege, or water power, that has been or is in use for mechanical, manufacturing, milling or hydraulic purposes, or for the use of which for any of such purposes the necessary works are *bona fide* in course of construction. R.S.O. 1960, c. 203, s. 85.

Protection  
of occupied  
water  
privilege

**89.** Subject to section 94, an occupied water privilege shall not be in any manner interfered with or encroached upon under the authority of this Part without the consent of the owner. R.S.O. 1960, c. 203, s. 86.

Right of  
owner of  
water  
privilege to  
enter on and  
survey lands

**90.**—(1) A person desiring to use or improve a water privilege, of which or a part of which he is the owner or legal occupant, for any mechanical, manufacturing, milling or hydraulic purposes by erecting a dam and creating a pond of water, increasing the head of water in any existing pond or extending its area, diverting the waters of any stream, pond or lake into any other channel, constructing any raceway or other erection or work that he requires in connection with the improvement and use of the privilege, or by altering, renewing, extending, improving, repairing or maintaining any such dam, raceway, erection or work, or any part thereof, may enter upon any land that he considers necessary to be examined and to make an examination and survey thereof, doing no unnecessary damage and making compensation for any actual damage done.

Acquisition  
of lands  
for water  
privilege  
R.S.O. 1970,  
c. 154

(2) If, upon an application to a judge of the county or district court, as hereinafter provided, such person obtains authority, he may, subject to *The Expropriations Act*, take, acquire, hold and use such parts of the land so examined or such rights over or in respect thereof as the judge considers necessary for the completion, improvement or maintenance of the water privilege and works in connection therewith.

Trans-  
mission line

(3) The building of a transmission line for the transmission of electrical power or energy generated by an occupied water privilege shall be deemed to be a use or improvement of a water privilege within the meaning of this section. R.S.O. 1960, c. 203, s. 87.

Proceedings

**91.**—(1) A person desiring to exercise the powers mentioned in section 90, or any of them, shall cause,

(a) surveys and levels to be made and taken of the land sought to be taken, used or otherwise affected, and a map or plan thereof to be prepared;

(b) a statement to be prepared giving,

(i) a general description of the land to be taken and of the powers intended to be exercised with regard to any land, describing it,

- (ii) the names of the owners and occupiers of the land, so far as they can be ascertained, and
  - (iii) everything necessary for the right understanding of the map or plan, including a registrar's certified abstract of the titles to all the land to be affected by the application;
- (c) the map or plan and the statement to be filed in the office of the clerk of the county or district court of the county or district in which the land or part thereof is situate.

(2) He may then apply to the judge of such county or district court for an order empowering him to exercise the powers or such of them as he desires. R.S.O. 1960, c. 203, s. 88.

Application  
to judge

**92.** In addition to any other notice that the judge directs to be given, public notice of the application, stating the time and place when and where it is to be heard, shall be inserted for such period as the judge directs in a newspaper published in the county or district or one of the counties or districts in which the proposed works are to be constructed or any of the land affected is situate. R.S.O. 1960, c. 203, s. 89.

Public  
notice  
of applica-  
tion

**93.** If the judge is of the opinion that the allowance of the application in whole or in part is in the public interest and is proper and just under all the circumstances of the case, he may make an order empowering the applicant to exercise such of the powers as the judge considers expedient, for such time and on such terms and conditions as he determines, and the land affected shall be described in the order. R.S.O. 1960, c. 203, s. 90.

Order, when  
deemed  
proper and  
just

**94.** Where evidence is produced that satisfies the judge that the owner of a water privilege which has been but is not then in use for any of the purposes mentioned in subsection 1 of section 90 is holding it with the intention of again using it for mechanical, manufacturing, milling or hydraulic purposes, the judge may make an order fixing the time within which the necessary works for the actual use of such water privilege shall be constructed and actually used, and, unless such evidence is produced or the terms of such order are complied with, the water privilege shall not be deemed to be an occupied water privilege within the meaning of this Part. R.S.O. 1960, c. 203, s. 91.

Order as to  
privilege not  
in actual  
use

**95.** Where two or more persons claim to exercise the powers conferred by this Part in respect of the same water privilege, or any part thereof, the judge may impose such terms as he considers just, and may also limit a time within which the person whose application he allows shall construct the necessary works and actually use such water privilege. R.S.O. 1960, c. 203, s. 92.

Case of two  
or more  
claimants

Limit of  
size of  
ponds

**96.** No pond shall be authorized to be made or enlarged so as to exceed twenty acres in extent, unless the judge for special reasons otherwise directs. R.S.O. 1960, c. 203, s. 93.

What to be  
stated in  
order

**97.—**(1) The judge shall in the order state the height to which the water may be raised and fix the extent of the pond.

Compensation for  
injury

(2) The judge shall also assess the damages, if any, to be paid as compensation by the applicant for any injury that may be occasioned by the proposed works, and may make such order as to costs as he considers just.

Costs

(3) The costs shall be the same as in ordinary proceedings in the county court and shall be taxed by the clerk. R.S.O. 1960, c. 203, s. 94.

Payment of  
amount  
awarded

**98.—**(1) The sums so assessed and the costs shall be paid to the persons entitled thereto or into the Supreme Court as the judge directs before the powers or any of them are exercised and within sixty days after the order is made.

Enforcing or  
setting aside  
order  
R.S.O. 1970,  
c. 227

(2) If the same are not so paid, the order may be enforced under *The Judges' Orders Enforcement Act*, or, at the option of any of the persons entitled to receive a sum so assessed, may, on application to the judge, be set aside and vacated as to him, and in such case the judge may make such order as to the costs of the proceedings and of the application as he considers just. R.S.O. 1960, c. 203, s. 95.

Registration  
of judge's  
order

**99.** For the purpose of registration, the order shall be deemed a judgment of the court to which the judge belongs. R.S.O. 1960, c. 203, s. 97.

Judge's  
powers

**100.** The judge has all the powers possessed by him or by a county or district court in an action. R.S.O. 1960, c. 203, s. 98.

Judge's fees

**101.** The judge is entitled for his services to the like fees as are allowed to arbitrators. R.S.O. 1960, c. 203, s. 99.

Appeal from  
county  
judge

**102.—**(1) By leave of a judge thereof, an appeal lies to the Supreme Court from the order of the judge on any application under this Part. R.S.O. 1960, c. 203, s. 100 (1), *amended*.

Review of  
decision

(2) On such appeal the decision of the judge upon questions of fact and all other questions are open to review.

Application  
for leave to  
appeal

(3) The application for leave to appeal shall be made within ten days from the day on which the order appealed from was made, or within such further time as a judge of the Supreme Court allows.

(4) The judge to whom the application is made shall determine the time within which the appeal shall be set down to be heard, the persons upon whom notice of the appeal shall be served, and all such other matters as he considers necessary for the most speedy and least expensive determination of the appeal. Terms

(5) If the appeal is not set down to be heard within the time limited, or if any other condition imposed is not complied with, the appeal shall, unless otherwise ordered by a judge of the Supreme Court, be deemed to have been abandoned. Effect of non-compliance with conditions of appeal

(6) The practice and procedure upon the appeal, except so far as is in this section, or by the judge to whom the application for leave is made, otherwise provided, shall be the same as upon an appeal from a county court. R.S.O. 1960, c. 203, s. 100 (2-6). Practice on appeal

FORM 1

(Section 75)

Know all men by these presents that we (*here insert names of obligors, being the owner of the timber and at least one sufficient surety or, if the signature of the owner cannot be obtained without unreasonable delay, then being two sureties*) . . . . . are held and firmly bound unto A. B. (*here insert the name of the person claiming the lien*) in the penal sum of (*double the amount of the claim*) \$. . . . . to be paid to the said A. B. his executors, administrators and assigns for which payment well and truly to be made we and each of us, bind ourselves, and each of us our and each of our executors and administrators jointly and severally, firmly by these presents, sealed with our seals, and signed by us this. . . . ., 19. . . .

Whereas the said A. B. claiming to act under Part VI of *The Lakes and Rivers Improvement Act* has taken possession of certain (timber) owned or controlled by . . . . . and claims a lien thereon for the sum of \$. . . . ., under section 68, 71 or 74 (*as the case may be*) of the said Act.

And whereas this bond is given as security for payment to the said A. B., of such sum as he may be held entitled to by arbitration pursuant to the said Act, and of any costs and expenses of the arbitration that may become payable to him.

Now the condition of the above obligation is such that if the said. . . . ., his executors or administrators to pay to the said A. B., his executors, administrators or assigns, such sum as is determined by arbitration pursuant to the said Act to be payable to the said A. B., his executors, administrators or assigns for charges and expenses, and also such sum as become payable to the said A. B., his executors, administrators or assigns, for costs and expenses of such arbitration, then the above obligation to be void, otherwise to remain in full force.

C. D. (SEAL)

F. G. (SEAL)

Signed, sealed and delivered }  
in the presence of  
X.Y. }





## CHAPTER 234

### The Land Titles Act

#### PART I

##### PRELIMINARY

**1.** In this Act,

Interpre-  
tation

- (a) “court” means the Supreme Court;
- (b) “duplicate plan” means a true copy of a plan that is prepared in accordance with the regulations;
- (c) “lot” includes a block, reserve and any other delineation of land on a plan;
- (d) “mounted duplicate plan” means a true copy of a plan that is prepared and mounted in accordance with the regulations;
- (e) “owner” means an owner in fee simple;
- (f) “plan” means a plan that is drawn in accordance with the regulations;
- (g) “prescribed” means prescribed by this Act or by the regulations;
- (h) “proper master of titles” means the master of titles in whose office the land affected or intended to be affected by any proceeding, instrument or document is or may be registered;
- (i) “registered” means registered under this Act;
- (j) “regulations” means the regulations made under this Act; R.S.O. 1960, c. 204, s. 1; 1961-62, c. 70, s. 1; 1966, c. 77, s. 1; 1970, c. 35, s. 1, *amended*.

**2.** The Minister of Justice and Attorney General is responsible for the administration of this Act. 1968-69, c. 57, s. 1.

Minister of  
Justice and  
Attorney  
General

#### PART II

##### ORGANIZATION AND ADMINISTRATION

##### APPLICATION OF ACT

**3.—(1)** This Act applies to,

- (a) every provisional judicial district;

Territorial  
application  
of Act

- (b) the counties of Bruce, Durham, Elgin, Essex, Halton, Hastings, Ontario, Oxford, Peel, Simcoe and Wentworth, as such counties are constituted for judicial purposes;
- (c) that part of the County of Middlesex comprising the registry division of the west riding of the County of Middlesex and the City of London;
- (d) the United Counties of Prescott and Russell as constituted for judicial purposes;
- (e) the judicial districts of Niagara North, Niagara South, Ottawa-Carleton and York,

and to such other parts of Ontario as are proclaimed under subsection 3. 1961-62, c. 70, s. 2, *part*; 1966, c. 77, s. 2; 1968-69, c. 57, s. 2; 1970, c. 35, s. 2, *amended*.

Continuation of registry offices

(2) The registry offices heretofore established for the provisional judicial districts, counties and judicial districts to which this Act applies are continued. 1961-62, c. 70, s. 2, *part*, *amended*.

Extension of application of Act  
R.S.O. 1970, c. 409

(3) The Lieutenant Governor may by his proclamation extend the operation of this Act to any part of the province forming a registry division under *The Registry Act*, or to such part thereof as is specified in the proclamation. 1968, c. 62, s. 1.

Land titles division boundaries upon annexation

**4.—(1)** Where a boundary of a county, city, separated town or provisional judicial district forming the boundary of a land titles division is altered by statute or under an order of the Ontario Municipal Board, the Lieutenant Governor in Council may by regulation provide that the area affected by the alteration be or remain included in the land titles division.

Transfer of records

(2) The Lieutenant Governor in Council may make regulations providing for the transfer of land titles records and documents relating to land included in a land titles division under subsection 1. 1967, c. 44, s. 1.

Names of land titles divisions

(3) The Lieutenant Governor in Council may by regulation designate the names by which land titles divisions shall be known. 1970, c. 35, s. 3.

First master of titles where operation of Act extended

**5.—(1)** Where the operation of this Act is extended under section 3 to a county or to a part of a county comprising one registry division, the registrar is *ex officio* the first master of titles for the county or registry division, as the case may be.

Idem

(2) Where the operation of this Act is extended to a county that comprises more than one registry division, unless the Lieutenant Governor in Council names one of the registrars as first master of titles for the county, each registrar is *ex officio* the first master of titles for his registry division. 1966, c. 77, s. 3, *part*.

**6.** Notwithstanding section 5, the Lieutenant Governor in Council may appoint a master of titles for any locality in which this Act is in force, to be styled the "Master of Titles" for the county, city, town or district, or as the case may be, as designated by the Lieutenant Governor in Council. 1966, c. 77, s. 3, *part*.

Appoint-  
ment of  
masters

**7.**—(1) Subject to subsection 2 of section 5 and except as provided by subsection 2, every land titles office shall be combined with the registry office for the registry division to which this Act has been extended. 1968-69, c. 57, s. 3 (1).

Operation  
of land  
titles  
offices

(2) The land titles office for the Judicial District of York shall continue to be operated in Toronto as a separate office. 1966, c. 77, s. 3, *part*.

Land titles  
office for  
Judicial  
District  
of York

**8.** Such employees as are considered necessary for the administration of this Act may be appointed under *The Public Service Act*. 1968, c. 62, s. 2, *part*.

Employees  
R.S.O. 1970,  
c. 386

**9.** The director of titles and every master of titles shall pay monthly to the Treasurer of Ontario all fees received by him under this Act, after payment of such disbursements as have been authorized by the Director of Land Registration, and shall remit every such payment to the Director of Land Registration together with a monthly return in such form as is approved by him. 1968, s. 62, s. 2, *part, amended*.

Remission  
of fees

#### OFFICERS, ETC.

**10.** The Director of Land Registration appointed under *The Registry Act* has general supervision and control over land titles offices and the system for registration therein and, subject to this Act and the regulations, has similar powers and duties as he has under section 97 of *The Registry Act*, other than clause *h* thereof, and such other duties as he is required to perform by the Lieutenant Governor in Council. R.S.O. 1960, c. 204, s. 6; 1968-69, c. 57, s. 4, *amended*.

Duties of  
Director  
of Land  
Registration

R.S.O. 1970,  
c. 409

**11.**—(1) The Lieutenant Governor in Council may appoint a barrister or solicitor of not less than ten years standing to be the director of titles. R.S.O. 1960, c. 204, s. 7 (1).

Director of  
titles

(2) The Lieutenant Governor in Council may appoint a barrister or solicitor of not less than five years standing to be the deputy director of titles, and, in the absence of the director of titles or if the office of director of titles is vacant or if directed by the director of titles, the deputy director of titles has and may exercise and perform the powers and duties of the director of titles under this or any other Act. 1961-62, c. 70, s. 4, *part*; 1970, c. 35, s. 4 (1).

Deputy  
director  
of titles

(3) The Lieutenant Governor in Council may appoint one or more assistant deputy directors of titles who shall exercise such powers and perform such duties of the director of titles under this

Assistant  
deputy  
directors  
of titles



or any other Act as the director of titles directs. 1961-62, c. 70, s. 4, *part*; 1970, c. 35, s. 4 (2).

Signing  
officers

(4) The director of titles may designate one or more persons on the staff of his office or any land titles office as signing officers who shall act under the authority of the director to complete the registration of instruments and authenticate certificates under this Act. R.S.O. 1960, c. 204, s. 7 (5).

Duties of  
director  
of titles

**12.**—(1) The director of titles shall supervise and determine all matters relating to titles of land to which this Act applies. 1968-69, c. 57, s. 5.

Seal

(2) The director of titles shall have a seal of office in such form as the Lieutenant Governor in Council approves.

Hearing  
before  
director

(3) Where under this Act the proper master of titles is authorized to hear and determine any matter, the matter may be determined by the director of titles at a hearing upon the request or consent of the proper master of titles.

Place for  
hearing

(4) A hearing before the director of titles under subsection 3 may be held at the local land titles office or at the office of the director of titles, regard being had to the circumstances of the case.

Notices  
of hearing

(5) Notices of a hearing to be held by the director of titles may be served or caused to be served by the director of titles or by the proper master of titles.

Authority of  
director,  
deputy  
director,  
etc.

(6) Any action or duty authorized or prescribed by this Act to be performed by a proper master of titles may, in the absence of or with the consent of the proper master of titles, be performed by the director of titles, the deputy director of titles or by an assistant deputy director of titles, if so authorized by the director of titles. R.S.O. 1960, c. 204, s. 8 (3-7).

Registration  
of order of  
director

(7) Any order of the director of titles shall, upon his request, be registered, without fee, by the proper master of titles, who shall make such entries in or amendments to the register of the title of the land affected by the order as may be required by the director in his order.

Disputes as  
to fees

(8) Where a dispute arises with respect to any fee payable under this Act to the proper master of titles which cannot be settled by him to the satisfaction of the person by whom the fee is payable in the first instance, the proper master of titles shall immediately notify the director of titles of the dispute, and thereupon the director shall determine the amount of the fee to be paid, taking into account any unusual circumstance, and he is not bound by the prescribed schedule of fees, and the written decision of the director thereupon is final but subject to appeal by such person, as provided by section 29, if notice of the appeal is served upon the proper master of titles within fifteen days after receipt by such person of the decision. 1961-62, c. 70, s. 5 (2).

**13.**—(1) The Lieutenant Governor in Council may appoint a senior deputy of the master of titles at Toronto, and the person so appointed shall act under the supervision of the master of titles or shall act as master of titles in the absence of the master of titles, and, when acting in the absence of the master of titles, the senior deputy master of titles has and may exercise and perform the powers and duties of the master of titles.

Senior  
deputy at  
Toronto

(2) The Lieutenant Governor in Council may appoint a deputy of the master of titles at Toronto, and the person so appointed shall act under the supervision of the master of titles or the senior deputy master of titles or shall act as master of titles in the absence of the master of titles and the senior deputy master of titles, and, when acting in the absence of the master of titles and the senior deputy master of titles, he has all the powers of the master of titles.

Deputy at  
Toronto

(3) When the master of titles at Toronto dies or resigns, his senior deputy master of titles shall act as master of titles until a master of titles is appointed. 1966, c. 77, s. 5, *part*.

Death or  
resignation

**14.**—(1) In the case of the illness or absence of a master of titles or for any other cause, the Lieutenant Governor in Council may appoint a person to act as the deputy *pro tempore* of the master of titles, and such deputy, while so acting, has all the powers of the master of titles for whom he is appointed deputy. 1966, c. 77, s. 6.

Appoint-  
ment  
of deputy  
of master  
of titles

(2) A person may be appointed under this section with power to act from time to time.

To act from  
time to time

(3) In case of the death of the master of titles, the deputy may act until his authority is revoked or a master of titles is appointed and assumes the duties of his office. R.S.O. 1960, c. 204, s. 10 (2, 3).

Until  
authority  
revoked or  
appointment  
to office  
made

**15.**—(1) The Lieutenant Governor in Council may appoint one or more deputies of a master of titles who shall act under the supervision of the master of titles, and the deputy or, where more than one deputy has been appointed, the deputy who is senior in appointment shall act as master of titles in the absence of the master of titles, and, when so acting, a deputy has and may exercise and perform the powers and duties of the master of titles.

Appoint-  
ment of  
deputy of  
master of  
titles

(2) When a master of titles dies or resigns, the deputy or, where more than one deputy has been appointed, the deputy who is senior in appointment shall act as master of titles until a master of titles is appointed.

Death or  
resignation  
of master  
of titles

(3) This section does not apply to the office of land titles at Toronto. 1966, c. 77, s. 7.

Saving

Examiner  
of surveys

**16.**—(1) The Lieutenant Governor in Council may appoint an Ontario land surveyor of not less than five years standing to be the examiner of surveys who shall perform such duties as the director of titles requires in connection with plans, surveys and descriptions of land under this or any other Act administered by the director of titles. R.S.O. 1960, c. 204, s. 11 (1).

Assistant  
examiners  
of surveys

(2) The Lieutenant Governor in Council may appoint one or more persons to be assistant examiners of surveys who shall assist the examiner of surveys in the performance of his duties. 1968-69, c. 57, s. 7.

Oath of  
office

**17.** Every officer appointed under this Act, before he enters upon the duties of his office, shall take and subscribe an oath in the prescribed form, which shall be transmitted by him to the Director of Land Registration. 1968-69, c. 57, s. 8.

Master, etc.,  
not to act  
as agent,  
etc., of  
investors

**18.** No officer or clerk appointed under this Act shall act directly or indirectly as the agent of any corporation, society or person investing money and taking securities on land or advise for any fee or reward, or otherwise, upon titles to land, or practise as a conveyancer or carry on or transact within the office any business or occupation other than his duties as such officer or clerk or as holder of some other office under the Government of Ontario. R.S.O. 1960, c. 204, s. 16 (1).

Protection  
of officers,  
etc.

**19.** No officer appointed under this Act and no person acting under his authority or under an order of the court or a rule is liable to any action, suit or proceeding for or in respect of an act or matter *bona fide* done or omitted to be done in the exercise or supposed exercise of the powers conferred by this Act or of any such order or rule. R.S.O. 1960, c. 204, s. 17.

Seal of  
office

**20.** There shall be a seal for every office of land titles. R.S.O. 1960, c. 204, s. 18.

Holiday  
defined  
R.S.O. 1970,  
c. 225

**21.**—(1) In this section, “holiday” means,

- (a) a holiday as defined in *The Interpretation Act*;
- (b) Saturday;
- (c) the day proclaimed as Civic Holiday in the municipality in which the land titles office is located;
- (d) the 26th day of December in a year in which Christmas Day falls on a day other than Saturday, or the 27th day of December in a year in which Christmas Day falls on a Saturday.

Office hours

(2) Except on holidays when they shall be closed, every land titles office shall be kept open from 9.30 o'clock in the forenoon until 4.30 o'clock in the afternoon. 1970, c. 35, s. 5.



AUTHORITY OF OFFICERS

**22.**—(1) The director of titles or proper master of titles in an application made to him may act upon depositions or examinations taken before any of the special examiners appointed by the court, who may administer the requisite oath to any person whose deposition or cross-examination the director of titles or proper master of titles has requested such examiner to take, and any such deposition or examination may be taken in shorthand, and any *viva voce* evidence given before the director of titles or proper master of titles may be taken down by a sworn shorthand writer if the examining party so desires.

Depositions  
taken before  
special  
examiners

(2) The director of titles or proper master of titles may name the witnesses to be examined or he may request the examiner to take the examination of all witnesses produced by any named person or of any class of witnesses. R.S.O. 1960, c. 204, s. 21.

Directions  
to examiner

**23.**—(1) The director of titles or proper master of titles, by summons under the seal of his office, may require the attendance of all such persons as he thinks fit in an application made to him and may in the summons require any person to produce for inspection any document, deed, instrument or evidence of title to the production of which the applicant or a trustee for him is entitled.

Power to  
summon  
witnesses

(2) He may also, by a like summons, require any person having the custody of any map, plan or book made or kept in pursuance of any statute to produce such map, plan or book for his inspection.

To require  
production  
of plans,  
books, etc.

(3) He may examine upon oath any person appearing before him, and he may allow to every person summoned by him reasonable charges for his attendance.

Examina-  
tion on oath

(4) Any charges allowed by the director of titles or the proper master of titles under this section shall be deemed to be charges incurred in or about proceedings for registration of land and may be dealt with accordingly.

Charges,  
etc.

(5) If any person disobeys an order of the director of titles or proper master of titles made under this section, the director of titles or proper master of titles may certify such disobedience to the court, and thereupon such person may be punished by the court in the same manner as if the order were the order of the court.

Dis-  
obedience  
of orders

(6) If any person, after the delivery to him of the summons or of a copy thereof, wilfully neglects or refuses to attend in pursuance of the summons or to produce any map, deed, instrument, evidence of title, plan, book or other document or to answer upon oath or otherwise such questions as may be lawfully put to him by the director of titles or proper master of titles, he is guilty

Non-attend-  
ance or  
refusal to  
answer  
questions



of an offence and on summary conviction is liable to a fine of not more than \$50.

Tender of  
conduct  
money and  
fees

(7) No person shall be required to attend in obedience to a summons or to produce documents unless the fees and allowances for his attendance in accordance with the tariff of the court are paid or tendered to him. R.S.O. 1960, c. 204, s. 22.

Director or  
master may  
state a case  
for opinion  
of court, or  
direct issue

**24.**—(1) Where upon the examination of a title or upon an application with respect to registered land the director of titles or the proper master of titles entertains a doubt as to any matter of law, he may state a case for the opinion of the court and may name the parties to it, and, where he entertains a doubt as to any matter of fact, he may direct an issue to be tried for the purpose of determining such fact.

Exercise of  
powers of

(2) The powers conferred by this section shall not be exercised by a proper master of titles except with the approval of the director of titles. R.S.O. 1960, c. 204, s. 23.

Administra-  
tion of  
oaths  
R.S.O. 1970,  
c. 409

**25.** The proper master of titles, or any officer of the office of land titles authorized by him in writing, or any person authorized for a like purpose under *The Registry Act*, may administer an oath for any of the purposes of this Act. R.S.O. 1960, c. 204, s. 24.

Inhibiting  
of  
registered  
dealings

**26.**—(1) The court, the director of titles or the proper master of titles, upon the application of any person interested made in the prescribed manner in relation to any registered land or charge, after directing such inquiries, if any, to be made and notices given and after hearing such persons as the court, the director of titles or the proper master of titles considers necessary or expedient, may issue an order or make an entry inhibiting for a time or until the occurrence of an event to be named in such order or entry or generally until further order or entry any dealing with registered land or with a registered charge.

Terms, etc.

(2) The court, the director of titles or the proper master of titles of his own accord and without notice, may make an order or an entry under subsection 1 and may impose any terms or conditions that are considered just, and may discharge the order or cancel the entry, with or without costs, and generally act in such manner as the justice of the case requires. R.S.O. 1960, c. 204, s. 25.

### PART III

#### JURISDICTION OF THE COURT

Exercise  
of  
jurisdiction  
R.S.O. 1970,  
c. 228

**27.**—(1) Any jurisdiction of the court under this Act, other than an appeal to which section 17 of *The Judicature Act* applies, may be exercised by a judge of the court whether sitting in court or in chambers. R.S.O. 1960, c. 204, s. 26, *amended*.

(2) The court, on any application or in any other matter or proceeding coming before it under this Act, has the like authority in respect of costs as it has in any ordinary proceeding within its jurisdiction. R.S.O. 1960, c. 204, s. 27.

**28.**—(1) Officers appointed under this Act shall obey the order of any competent court in relation to registered land on being served with the order or a certified copy thereof. R.S.O. 1960, c. 204, s. 28 (1); 1961-62, c. 70, s. 9.

(2) Where under an order of the court freehold or leasehold land or a charge is vested in any person, the proper master of titles shall, on due proof of the order, make such entries in the register as are necessary to give effect thereto, but, if any person whose estate is affected by the order is not shown by the order to be a party to the cause or matter in which the order was made, the applicant shall furnish such evidence as is requisite to show that he is bound thereby. R.S.O. 1960, c. 204, s. 28 (2).

**29.**—(1) An appeal lies from any act, order or decision of the Director of Land Registration, the director of titles or a master of titles under this Act to a judge of the county or district court of the county or district in which the land to which the decision relates is situate or of such other county or district as the parties agree to, and the appeal shall be by trial *de novo*.

(2) An appeal lies from a decision of a judge of a county or district court under subsection 1 to the Court of Appeal. 1966, c. 77, s. 12, *part*; 1968-69, c. 57, s. 9.

**30.** Any person affected by an order made under this Act by a judge of the High Court may appeal from him to the Court of Appeal within the prescribed time and, subject to the rules, in like manner as in the case of other appeals to that court. 1960, c. 204, s. 30.

**31.**—(1) Where an infant, mentally defective person, mentally incompetent person, person of unsound mind, person absent from Canada or person yet unborn is interested in land in respect of the title to which a question arises, any person interested in the land may apply to the court for a direction that the opinion of the court to which the case is stated under this Act shall be conclusively binding on the infant, mentally defective person, mentally incompetent person, person of unsound mind, person absent from Canada or unborn person.

(2) The court shall hear the allegations of all parties appearing before it and may disapprove altogether or may approve, either with or without modification, of the directions of the director of titles or of the proper master of titles in respect of any case stated as to the title of land.

Power to  
appoint  
guardian  
etc.

(3) The court may also, if necessary, appoint a guardian or other person to appear on behalf of an infant, mentally defective person, mentally incompetent person, person of unsound mind, person absent from Canada or unborn person.

Order where  
persons  
absent,  
unborn or  
under  
disability

(4) The court, if satisfied that the interests of the person under disability, absent or unborn will be sufficiently represented in any case, shall make an order declaring that all persons, with the exceptions, if any, named in the order, are to be conclusively bound, and thereupon all persons, with such exceptions, are conclusively bound by the decision of the court. R.S.O. 1960, c. 204, s. 31.

Power of  
court in  
action for  
specific  
performance

**32.**—(1) Where an action is instituted for the specific performance of a contract relating to registered land or a registered charge, the court having cognizance of the action may by such mode as it considers expedient cause all or any persons who have registered estates or rights in the land or charge, or have entered notices, cautions or inhibitions against the same, to appear in the action and show cause why the contract should not be specifically performed, and the court may direct that an order made by the court in the action is binding on such persons or any of them.

Costs in  
action for  
specific  
performance

(2) All costs awarded to a person so appearing may, if the court so orders, be taxed as between solicitor and client. R.S.O. 1960, c. 204, s. 32.

## PART IV

### APPLICATION FOR FIRST REGISTRATION

#### APPLICANTS

Application  
for  
registration

**33.**—(1) A person entitled for his own benefit at law or in equity to an estate in fee simple in land, whether or not subject to encumbrances, or a person capable of disposing for his own benefit by way of sale of an estate in fee simple in land, whether or not subject to encumbrances, may apply to the proper master of titles to be registered under this Act or to have registered in his stead any nominee as owner of the land with an absolute, qualified or possessory title, as the case may be.

Application  
by or  
purchaser

(2) A person who has contracted to buy for his own benefit an estate in fee simple in land, whether or not subject to encumbrances, may also apply if the vendor consents to the application.

Application  
by or  
authorized  
by trustee,  
etc.

(3) A person holding land on trust for sale and a trustee, mortgagee or other person having a power of selling land may authorize the purchaser to make an application to be registered as owner with any title with which an owner is authorized to be registered, and may consent to the performance of the contract



being conditional on his being so registered, or such a person, except a mortgagee, may himself apply to be registered as owner with the consent of the persons, if any, whose consent is required to the exercise by the applicant of his trust or power of sale.

(4) A mortgagee having a power of selling land may apply to have the mortgagor or other person owning the equity of redemption registered as owner with any such title. R.S.O. 1960, c. 204, s. 33 (1-4). Application by a mortgagee with a power of sale

(5) Subject to subsection 4 of section 48 and to section 49, the proper master of titles may, upon an application made by or on behalf of any minister of the government of Canada or Ontario, register under this Act any land claimed to be owned by Her Majesty the Queen in right of Canada or Ontario, as the case may be, notwithstanding that the land had not previously been granted by the Crown. 1961-62, c. 70, s. 10. Registration of Crown as owner

**34.**—(1) The council of any municipality to which this Act applies may by by-law authorize an application to be made to the proper master of titles to have any land that is within the municipality registered under this Act. 1961-62, c. 70, s. 11 (1). Application by municipal council

(2) For the purpose of an application under subsection 1, the municipality shall be deemed to be the agent of the owners and other persons having an interest in the land designated in the by-law and it is not necessary to obtain the consent of such owners and other persons to the application. No consent required

(3) The costs of and incidental to an application under subsection 1 shall be borne and paid by the municipality making the application and the municipality may recover the same by levy of a special rate of assessment on all parcels included in the application or in the municipality. Costs

(4) When an application under subsection 1 is made, the director of titles may by direction designate the land mentioned in the application as a subdivision plan area and thereupon the procedures prescribed by subsections 2 to 9 of section 162 apply *mutatis mutandis*. Judge's plan procedure may be applied

(5) A direction under subsection 4 does not prevent the registration of further dealings with the land until notice has been served in accordance with subsection 4 of section 162. R.S.O. 1960, c. 204, s. 34 (2-5). Registration not affected

(6) The proper master of titles shall not proceed with an application under this section without the consent of the director of titles. Consent of director

(7) The Lieutenant Governor in Council may determine the amount of fees to be paid to the proper master of titles and to the director of titles on an application under this section. 1961-62, c. 70, s. 11 (2), *part*. Registration fees



Fee for  
certificate  
as to  
executions  
R.S.O. 1970,  
cc. 434, 228

(8) Notwithstanding section 11 of *The Sheriffs Act* or the rules under *The Judicature Act*, the Director of Land Registration may determine the fee payable to a sheriff for a certificate as to executions in connection with an application under this section. 1966, c. 77, s. 13, *amended*.

Application  
by Minister of  
Justice and  
Attorney  
General  
where land  
not in a  
municipality

(9) The Minister of Justice and Attorney General may apply under this section as agent of the owners and other persons having interests in any land designated by him that is not within a municipality, and subsections 2, 3, 4, 5, 7 and 8 apply *mutatis mutandis*. 1961-62, c. 70, s. 11 (2), *part, amended*.

Crown  
grant  
R.S.O. 1970,  
c. 380

**35.**—(1) The proper master of titles shall register a Crown grant received by him under section 40 of *The Public Lands Act* as provided by that section and this Act. 1965, c. 55, s. 1.

Where  
notice of  
caution or  
adverse  
claim un-  
necessary

(2) It is not necessary to issue a notice in respect of a caution or adverse claim that has been lodged if, by the certificate of the Minister or Deputy Minister of Lands and Forests, it appears that the claim in respect of which the caution or adverse claim was lodged was considered by the Minister and disposed of before the issue of the patent, and, if before the receipt of such a certificate any proceedings have been taken by a master of titles in respect of the caution or adverse claim, he shall thereupon discontinue the proceedings and disallow any objection or claim founded thereon and make such order as to costs as he considers just. R.S.O. 1960, c. 204, s. 35 (3); 1966, c. 77, s. 14 (1).

Action by  
master of  
titles

(3) Where there is no contest as to the rights of the parties, the master of titles may make the requisite entry and issue his certificate, but, in case of a contest, he shall transmit the papers to the director of titles before registering the patentee as owner, and shall otherwise proceed as provided in section 49. R.S.O. 1960, c. 204, s. 35 (4); 1966, c. 77, s. 14 (2).

Where  
cautioner  
consents

(4) Where the cautioner consents to the registration of the patentee, the master of titles need not issue a notice on account of the caution. R.S.O. 1960, c. 204, s. 35 (5); 1966, c. 77, s. 14 (3).

Registration  
of Crown  
lease-  
patents, etc.

(5) Notwithstanding subsection 1 of section 42, letters patent from the Crown demising land or mining rights for a term of years, or for any greater estate, granted on or after the 31st day of December, 1887, shall be deemed to have been and to be within this section. R.S.O. 1960, c. 204, s. 35 (6).

Registration  
of federal  
patentees

**36.** Where land situate in a provisional judicial district has been patented by the Government of Canada, the proper master of titles has authority to register the patentee as owner of the land and may do so without submitting his finding upon the application to the director of titles for his concurrence. R.S.O. 1960, c. 204, s. 36.

**37.**—(1) Upon an entry of ownership being made, the proper master of titles, unless the land is free grant or otherwise exempt from execution, shall, in the prescribed form, notify the sheriff in whose bailiwick the land lies of the entry of the patentee as owner. Notice by master to sheriff

(2) The notice shall be sent by registered mail and no entry of any dealing with the land shall be made in the register until fourteen days after the mailing of the notice, unless proof is previously made that the land is not liable to any execution. After what time entries may be made in register

(3) Upon receipt of the notice, the sheriff shall forthwith transmit to the proper master of titles a copy of any execution in his hands affecting the land of the patentee, and, if within the fourteen days no copy of an execution against the land of the patentee is received from the sheriff, the proper master of titles may assume that the land is not subject to any execution and may enter subsequent dealings with the land accordingly, and as against such entry no claim shall afterwards be sustained in respect of an execution against the patentee. Action of sheriff and proper master of titles after notice

(4) Where the proper master of titles receives from the sheriff a copy of an execution affecting the land, an entry thereof shall be made against the land by the proper master of titles and all dealings with it are subject to the execution. R.S.O. 1960, c. 204, s. 37. Entry where copy of execution received

**38.**—(1) Where a patent for land is forwarded to a proper master of titles under section 35 and it is made to appear to him that the patentee since the date of the patent has transferred the land to some other person, the transferee or, in case of a further transfer or transfers, the ultimate transferee of the land shall be entered as the first registered owner and shall be described as the transferee of the patentee or otherwise according to the fact. Registration of transferee of patentee

(2) Before entering a transferee as first registered owner, the proper master of titles shall require evidence to be produced showing that there is no execution affecting the land. R.S.O. 1960, c. 204, s. 38. Evidence of no execution

#### TITLES

**39.** Where an absolute title is required, the applicant or his nominee shall not be registered as owner of the fee simple until the title is approved by the director of titles. R.S.O. 1960, c. 204, s. 39. Evidence where absolute title required

**40.**—(1) Where on an application for first registration it appears that the applicant is so entitled by virtue of length of possession of the land, he may be registered as the owner of the land with a possessory title. Possessory title may be registered

(2) Subject to the approval of the director of titles, an applicant for first registration whose claim to ownership is based Absolute title based on possession

upon length of possession of the land may be registered as the owner in fee simple with an absolute title of the land. 1961-62, c. 70, s. 12.

A qualified  
title may be  
registered

**41.**—(1) Where on the examination of the title it appears to the proper master of titles that it can be established only for a limited period or subject to certain reservations, the proper master of titles, on the application of the party applying to be registered, may, by an entry made in the register, except from the effect of registration any estate, right or interest arising before a specified date, or arising under a specified instrument, or otherwise particularly described in the register.

Qualified  
title

(2) A title registered subject to such excepted estate, right or interest shall be called a qualified title. R.S.O. 1960, c. 204, s. 41 (1, 2).

Register of  
leasehold  
land

**42.**—(1) A separate register of leasehold land shall be kept and,

- (a) any person who has contracted to buy for his own benefit leasehold land held under a lease for a life or lives, or determinable on a life or lives, or for a term of years of which at least twenty-one are unexpired, or in respect of which the lessee or his assigns is or are entitled to a renewal term or succession of terms amounting with the part unexpired of the current term to at least twenty-one years, or to a renewal for a life or lives, whether or not subject to encumbrances;
- (b) any person entitled for his own benefit, at law or in equity, to leasehold land held under any such lease whether or not subject to encumbrances; or
- (c) any person capable of disposing for his own benefit by way of sale or leasehold land held under any such lease whether or not subject to encumbrances,

may apply to the proper master of titles to be registered or to have registered in his stead any nominee as owner of such leasehold land, with the addition, where the lease under which the land is held is derived immediately out of freehold land and the applicant is able to submit for examination the title of the lessor, of a declaration of the title of the lessor to grant the lease under which the land is held, if, in the case of leasehold land contracted to be bought, the vendor consents to the application. R.S.O. 1960, c. 204, s. 42 (1); 1967, c. 44, s. 2.

Registered  
lease

(2) Every applicant for registration of leasehold land shall deposit with the proper master of titles the lease in respect of which the application is made or, if the lease is proved to the satisfaction of the proper master of titles to be lost, a copy of the lease or of a counterpart thereof, verified to the satisfaction of the



proper master of titles, and such lease or verified copy is in this Act referred to as the registered lease.

(3) Leasehold land held under a lease containing an absolute prohibition against alienation shall not be registered.

Where lease contains prohibition against alienation

(4) Leasehold land held under a lease containing a prohibition against alienation, without the licence of some other person, shall not be registered until provision is made in the prescribed manner for preventing alienation, without such licence by entry in the register of a restriction to that effect.

Where alienation permitted by licence

(5) Section 33 applies to leasehold as well as to freehold land.

Sec. 33 to apply to leasehold land

(6) A person may apply for registration of a leasehold interest under this section where the freehold title out of which his interest is derived is registered under this Act.

Leasehold interests

(7) An applicant or his nominee shall not be registered as owner of leasehold land until the title to the land is approved by the proper master of titles and, if he applies to be registered as owner of leasehold land with a declaration of the title of the lessor to grant the lease under which the land is held, shall not be registered with the declaration until the lessor, after an examination of his title by the proper master of titles, is declared to have had an absolute or qualified title to grant the lease under which the land is held. R.S.O. 1960, c. 204, s. 42 (2-7).

Evidence of title required on application

EASEMENTS AND MINING RIGHTS

**43.**—(1) The proper master of titles may register the owner of,

Registration of easements, mining rights

- (a) any incorporeal hereditament of freehold tenure enjoyed in gross; or
- (b) any mines or minerals where the ownership of the same has been severed from the ownership of the land,

in the same manner and with the same incidents in and with which he is by this Act empowered to register the owner of land, or as near thereto as circumstances admit.

(2) Where an easement in or over unregistered land is granted as appurtenant to registered land, the proper master of titles, after such examination as he considers necessary, may enter the easement in the register of the dominant land with a declaration that the title thereto is absolute, qualified or possessory, or otherwise as the case requires, and shall cause to be registered in the proper registry division a certificate of such entry.

Registration of easements when dominant land registered



Certificate  
of easement  
when domi-  
nant land  
unregistered

(3) Where an easement in or over registered land is granted as appurtenant to unregistered land, the proper master of titles may issue a certificate setting out the easement and the land to which it is appurtenant, which may be registered in the registry division in which the land is situate, and he shall note on the register that such certificate has been issued.

Notice of  
easement

(4) Where the existence of an easement is proved, the proper master of titles may, if he thinks fit, enter notice thereof on the register.

Statement of  
appurtenant  
easement on  
certificate,  
etc.

(5) Where title is shown to an easement appurtenant to land being registered, the facts may be stated in the entry and certificate of ownership. R.S.O. 1960, c. 204, s. 43.

#### PROCEDURE ON FIRST REGISTRATION

Regulations  
as to exami-  
nation of  
title

**44.** The examination of a title shall be conducted in the prescribed manner, subject to the following:

1. Where notice has been given, sufficient opportunity shall be afforded to any person desirous of objecting to come in and state his objections to the proper master of titles.
2. The proper master of titles has jurisdiction to hear and determine any such objections, subject to an appeal to the court in the prescribed manner and on the prescribed conditions.
3. If the proper master of titles, upon the examination of any title, is of opinion that it is open to objection but is nevertheless a title under which the holding will not be disturbed, he may approve of it or may require the applicant to apply to the court, upon a statement signed by the proper master of titles, for its sanction to the registration.
4. It is not necessary to produce any evidence that by *The Vendors and Purchasers Act* is dispensed with as between vendor and purchaser or to produce or account for the originals of registered instruments unless the proper master of titles otherwise directs.
5. The proper master of titles may receive and act upon any evidence that is received in court on a question of title, or any evidence that the practice of conveyancers authorizes to be received on an investigation of a title out of court, or any other evidence, whether it is or is not receivable or sufficient in point of strict law, or according to the practice of conveyancers, if it satisfies him of the truth of the facts intended to be made out thereby.

R.S.O. 1970,  
c. 478

6. The proper master of titles may refer to and act upon not only the evidence adduced before him in the proceeding in which it is adduced but also any evidence adduced before him in any other proceeding wherein the facts to which it relates were or are in question.
7. The proper master of titles may also act upon his own personal knowledge of material facts affecting the title upon making and filing a report, stating his knowledge of the particular facts and the means he had of obtaining such knowledge. R.S.O. 1960, c. 204, s. 44.

**45.** A notice of an application for first registration is sufficiently served upon an owner, mortgagee or chargee, or his assignee, of land adjoining the land of or claimed by the applicant for first registration if it is sent by registered mail addressed to the owner, mortgagee or chargee, or his assignee, as the case may be, of the land adjoining the land of the applicant at the address furnished under section 185 of this Act or section 37 of *The Registry Act*, or, where no such address has been furnished, addressed to the solicitor whose name appears on the conveyance, mortgage or charge or assignment thereof under which the owner, mortgagee or chargee, or his assignee, appears to have an interest in such adjoining land. 1961-62, c. 70, s. 14.

Notice

R.S.O. 1970,  
c. 409

**46.** Where the applicant desires the land to be registered free from the particulars mentioned in paragraphs 1 to 5 of subsection 1 of section 51, or any of them, his application shall so state, and the investigation shall proceed accordingly. R.S.O. 1960, c. 204, s. 45.

Where  
applicant  
desires title  
free

**47.—(1)** Where the applicant desires the land to be registered free from any public highway, a notice so stating shall be published once a week for two successive weeks in a newspaper published in the municipality in which the land lies or, where there is no such newspaper, in one published in a neighbouring municipality, and the notice shall also be served upon the Minister of Justice and Attorney General and upon the head or the clerk of the council of the municipality in which the land lies.

Notice of  
applications  
to have  
certificate  
free from  
highway

(2) If the Minister of Justice and Attorney General or the corporation of the municipality or any person objects to the land being so registered, the Minister of Justice and Attorney General, corporation or person may in his objection require that the question of the existence of the highway be tried in the court, and in that case the proper master of titles shall postpone his finding upon that part of the application until the question is finally determined, and shall give such directions as he considers proper in order that an early adjudication thereon may be had.

Trial of  
right of  
highway in  
court

(3) Notwithstanding that the Minister of Justice and Attorney General, corporation or person objecting has not required the question to be tried in the court, the proper master of titles of his

Master  
may direct  
action or  
issue

own motion or upon the application of a party may direct that an action be brought or an issue be tried in the court for the determination of the question on such terms and conditions as to costs and otherwise as he considers just. R.S.O. 1960, c. 204, s. 46 (1-3), *amended*.

Registration  
pending  
determina-  
tion and  
subsequent  
variation of  
entry

(4) Pending the final determination of the question, the proper master of titles may register the applicant as owner, subject to any public highway, and upon the final determination of the question, if it is determined in favour of the applicant, the entry and certificate of ownership shall be varied accordingly. R.S.O. 1960, c. 204, s. 46 (4).

Caution  
against  
registration  
of land

**48.**—(1) A person having or claiming such an interest in unregistered land as entitles him to object to any disposition thereof being made without his consent may apply to the proper master of titles for the registration of a caution to the effect that the cautioner is entitled to notice in the prescribed form, and to be served in the prescribed manner, of any application that may be made for the registration of the land.

Renewal

(2) Every caution under this section shall be renewed before the expiration of five years from the date of registration of the caution, otherwise it ceases to have effect.

Unpatented  
land

(3) A caution registered under this section in respect of unpatented land has no validity unless the description contained therein specifies the land in accordance with the description subsequently contained in the patent or describes it in such manner that the proper master of titles may know that the description in the caution is intended to affect the land described in the patent.

Cautioner  
entitled to  
notice of  
proposed  
registration  
of land

(4) After a caution has been registered in respect of unregistered land and while the caution is in force, registration shall not be made of the land until notice has been served on the cautioner to appear and oppose the registration and until the prescribed time has elapsed after the date of the service of the notice, or the cautioner has appeared, whichever first happens. R.S.O. 1960, c. 204, s. 47.

Proper  
master of  
titles to  
transmit  
application  
to director  
of titles

**49.**—(1) If, upon an application for first registration, the proper master of titles finds that the applicant or his nominee is entitled to be registered, he shall sign a memorandum to that effect at the foot of the application and draft entry and shall transmit them to the director of titles, with the deeds, evidence and other papers before him and a draft of the entry of ownership proposed to be made.

Where  
director  
of titles  
concurs

(2) If the director of titles concurs in the memorandum and the draft entry, he shall endorse his approval thereon and return the papers transmitted to him, and the proper master of titles may thereupon register the applicant or his nominee as owner.

(3) If the director of titles does not concur in the memorandum and draft entry, he shall communicate his opinion to the proper master of titles and cause such action to be taken as he considers expedient and, if his objections are not removed by explanations or additional evidence, the applicant or his nominee shall not be registered unless the court on appeal, or on a case stated for its opinion, otherwise directs.

Where  
director  
of titles  
does not  
concur

(4) If there is a contest upon the decision of the director of titles, registration shall be delayed for ten days to enable anyone who so desires to appeal. R.S.O. 1960, c. 204, s. 48.

Stay of  
proceedings

**50.** Except as provided in subsection 3 of section 35, section 49 does not apply to applications coming within sections 35, 36 and 38, or to applications for possessory titles, or for the registration of leasehold land where the freehold or other estate out of which the lease is derived is registered land, or where a declaration of the title of the lessor to grant the lease is not required. R.S.O. 1960, c. 204, s. 49.

Exception to  
application  
of s. 49

#### EFFECT OF FIRST REGISTRATION

**51.—**(1) All registered land, unless the contrary is expressed on the register, is subject to such of the following liabilities, rights and interests as for the time being may be subsisting in reference thereto, and such liabilities, rights and interests shall not be deemed to be encumbrances within the meaning of this Act:

Liability of  
registered  
land to  
easements  
and certain  
other rights

1. Provincial taxes and succession duties and municipal taxes, charges, rates or assessments, and school or water rates.
2. Any right of way, watercourse, and right of water, and other easements.
3. Any title or lien that, by possession or improvements, the owner or person interested in any adjoining land has acquired to or in respect of the land.
4. Any lease or agreement for a lease, for a period yet to run that does not exceed three years, where there is actual occupation under it.
5. Any right of the wife or husband of the person registered as owner to dower or curtesy, as the case may be, in case of surviving the owner.
6. A mechanic's lien where the time limited for its registration has not expired.
7. Any right of expropriation, access or user, or any other right, conferred upon or reserved to or vested in the Crown by or under the authority of any statute of Canada or Ontario.



8. Any public highway.
  9. Any liabilities, rights and interests created under section 35 of *The Highway Improvement Act*.
  10. Any by-law heretofore passed under section 35 of *The Planning Act* or a predecessor of that section, and any other municipal by-law heretofore or hereafter passed, affecting land that does not directly affect the title to land.
  11. Section 29 of *The Planning Act* in respect of any by-law passed thereunder that affects registered land not within a registered plan of subdivision where a copy of the by-law has been deposited under subsection 8 of that section and the other requirements of that section have been complied with, but this paragraph does not apply to land in a subdivision plan area under section 162 or to land shown on a composite plan under section 164.
  12. Where the registered owner is or a previous registered owner was a railway company, any interest that may be or may have been created by any instrument deposited in the office of the Secretary of State of Canada under section 139 of the *Railway Act* (Canada), but, where the previous registered owner was a railway company, this paragraph does not apply to a subsequent registered owner, except a railway company, unless a note of the previous ownership of the land by the railway company has been entered in the title register. R.S.O. 1960, c. 204, s. 5 (1); 1961-62, c. 70, s. 51 (1).
- Effect of registration of land upon timber licences
- (2) Where a licence under *The Crown Timber Act* has been or is granted and the land is registered under this Act, the land shall be deemed to have been and to be subject to the rights of the licensee or his assigns for the current licence year under the licence, and to the rights of Her Majesty in the pine trees under *The Public Lands Act*, without the fact of the land being so subject being expressed in the entry in the register or in the certificate of ownership. R.S.O. 1960, c. 204, s. 51 (2).
- Where owner of adjoining land has no right
- (3) A parcel of land registered under this Act is not subject to paragraph 3 of subsection 1 if a notice of the application for first registration that contained an accurate description of the parcel, or of a former larger parcel of which the parcel is a part, was served upon the person who at the time of giving the notice was the owner, mortgagee, chargee or purchaser, or his assignee, under a registered instrument of adjoining land and no objection to the first registration was filed with the proper master of titles within the time allowed by the notice.
- Application of subs. 1, par. 6
- (4) Paragraph 6 of subsection 1 does not confer upon a person claiming a mechanic's lien any greater right than he would have if the land were registered under *The Registry Act*.

R.S.O. 1970,  
c. 201

R.S.O. 1970,  
c. 349

R.S.C. 1952,  
c. 234

R.S.O. 1970,  
cc. 102, 380

Where owner  
of adjoining  
land has  
no right

Application  
of subs. 1,  
par. 6  
R.S.O. 1970,  
c. 409

(5) No order made under clause *b* of subsection 1 of section 32 of *The Planning Act* affects the title of an owner of registered land or the interest of any person therein as appearing in the register unless a copy of the order has been deposited or registered in the manner required for the deposit or registration of by-laws under subsections 8 and 9 of section 29 of *The Planning Act* before the registration of the transfer or other instrument under which ownership or another interest was acquired.

Effect of non-registration under R.S.O. 1970, c. 349, s. 32, subs. 1, cl. *b*

(6) The title of the registered owner for the time being of land or of a charge is subject to enforceable writs of execution against him that have been recorded under section 153, but no writ of execution against a prior registered owner is enforceable in respect of the land or charge unless a note of such writ has been entered in the title register. 1961-62, c. 70, s. 15 (2).

Writs of execution

**52.** The first registration of a person as owner of land, in this Act referred to as first registered owner with an absolute title, vests in the person so registered an estate in fee simple in the land, together with all rights, privileges and appurtenances, free from all estates and interests whatsoever, including estates and interests of Her Majesty, that are within the legislative jurisdiction of Ontario, but subject to the following:

Estate of first registered owner with absolute title

1. The encumbrances, if any, entered on the register.
2. The liabilities, rights and interests that are declared for the purposes of this Act not to be encumbrances, unless the contrary is expressed on the register.
3. Where the first registered owner is not entitled for his own benefit to the land registered, then as between him and any persons claiming under him, any unregistered estates, rights, interests or equities to which such person may be entitled. R.S.O. 1960, c. 204, s. 52.

**53.—**(1) The registration of a person as first registered owner with a qualified title has the same effect as the registration of such person with an absolute title, except that registration with a qualified title does not affect or prejudice the enforcement of any estate, right or interest appearing by the register to be excepted.

Estate of owner registered with a qualified title

(2) The registered owner of land with a qualified title may at any time apply to the proper master of titles to be registered as owner of the land with an absolute title, but the applicant shall not be so registered unless the director of titles is satisfied that the estate, right or interest in respect of which the title is qualified is no longer capable of enforcement, or unless a bond or covenant is furnished as provided by section 61. 1961-62, c. 70, s. 16.

Change from qualified title to absolute title

Estate of first registered owner with possessory title

**54.**—(1) The registration of a person as first registered owner with a possessory title only does not affect or prejudice the enforcement of any estate, right or interest adverse to or in derogation of the title of the first registered owner, and subsisting or capable of arising at the time of registration of such owner, but otherwise has the same effect as registration of a person with an absolute title.

Change from possessory title to absolute or qualified title

(2) The registered owner of land with a possessory title only may at any time apply to the proper master of titles to be registered as owner of the land with an absolute or qualified title, but the applicant shall not be so registered until the title is approved by the proper master of titles in the same manner as if the application were for first registration with an absolute or qualified title.

Application to be registered as absolute or qualified title after ten years

(3) After the expiration of ten years from the date of registration of a person as the registered owner with a possessory title only, the then registered owner of the land may, upon payment of the prescribed fees, apply to the proper master of titles to be entered as owner with an absolute or qualified title, and the proper master of titles may, either forthwith or after requiring such evidence to be furnished and notices to be given as he considers expedient, register the applicant as owner in fee simple with an absolute title or qualified title, subject to such encumbrances, if any, as the condition of the title requires. R.S.O. 1960, c. 204, s. 53.

Estate of first registered owner of leasehold land with a declaration of absolute title of lessor to grant lease

**55.** The registration of a person as first registered owner of leasehold land, with a declaration that the lessor had an absolute title to grant the lease under which the land is held, vests in such person the land comprised in the registered lease relating to the land for all the leasehold estate therein described with all implied or expressed rights, privileges and appurtenances, free from all estates and interests whatsoever, including estates and interests of Her Majesty, that are within the legislative jurisdiction of Ontario, but subject to the following:

1. All implied and express covenants, obligations and liabilities incident to such leasehold estate.
2. The encumbrances, if any, entered on the register.
3. The liabilities, rights and interests that affect the leasehold estate and that are by this Act declared not to be encumbrances in the case of registered freehold land, unless the contrary is expressed on the register.
4. Where the first registered owner is not entitled for his own benefit to the land registered, then as between himself and any person for whom he holds or claiming under him, any unregistered estates, rights, interests or equities to which such person may be entitled. R.S.O. 1960, c. 204, s. 54.



**56.** The registration of a person as first registered owner of leasehold land, without a declaration of the title of the lessor, does not affect or prejudice the enforcement of any estate, right or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held, but, save as aforesaid, has the same effect as the registration of a person as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R.S.O. 1960, c. 204, s. 55.

Estate of first registered owner of leasehold land without a declaration of title of lessor to grant lease

**57.**—(1) Where on the examination of the title of a lessor by the proper master of titles it appears to him that the title of the lessor to grant the lease under which the land is held can be established only for a limited period or subject to certain reservations, the proper master of titles may, by an entry made in the register, except from the effect of registration any estate, right or interest arising before a specified date or arising under a specified instrument, or otherwise particularly described in the register, and the title of a lessor subject to such excepted estate, right or interest shall be deemed to be a qualified title.

Lessor may be declared to have a qualified title to grant lease

(2) The registration of a person as first registered owner of leasehold land, with a declaration that the lessor had a qualified title to grant the lease under which the land is held, has the same effect as the registration of such person with a declaration that the lessor had an absolute title to grant the lease under which the land is held, except that registration with the declaration of a qualified title does not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. R.S.O. 1960, c. 204, s. 56.

Effect of registration

**58.**—(1) Notwithstanding any provision of this Act, *The Limitations Act* or any other Act, no title to and no right or interest in land registered under this Act that is adverse to or in derogation of the title of the registered owner shall be acquired hereafter or be deemed to have been acquired heretofore by any length of possession or by prescription, but this section is not binding upon a judge in respect of any order made by him under section 162.

No title by adverse possession, etc.  
R.S.O. 1970, c. 246

(2) This section does not prejudice, as against any person registered as first owner of land with a possessory title only, any adverse claim in respect of length of possession of any other person who was in possession of the land at the time when the registration of the first owner took place. R.S.O. 1960, c. 204, s. 57.

Operation of section

**59.**—(1) A certificate by the proper master of titles of the first registration of an owner under this Act shall be registered in the registry division in which the land is situate, and thereafter *The Registry Act* ceases to apply to the land.

R.S.O. 1970, c. 409, not to apply to land under this Act



Particulars  
to be stated  
in certificate  
for registry  
office

(2) The certificate, besides describing the land, shall state the date of the first registration, the number of the parcel and the register in which the land is registered, and the registrar shall in his abstract index enter the number of the parcel and the register as given in the certificate. R.S.O. 1960, c. 204, s. 58.

Land  
subject to  
mortgage  
at time of  
registration

**60.**—(1) Where land is registered subject to mortgages existing thereon at the time of the first registration, the mortgages shall be noted in the register in the same order as they are registered in the registry office, if such mortgages have been so registered, or the dates of the respective registrations thereof shall be stated, but this shall not be taken as an affirmation that such mortgages rank in the order in which they were registered or in the order in which they are noted.

Abstracts  
of instru-  
ments

(2) Abstracts of all instruments dealing with such mortgages shall thereafter be entered in the register, and the entry thereof shall be deemed the registration of the instrument, and the rights of the parties interested or claiming to be interested in any such mortgage so far as it affects land under this Act shall, subject to sections 40, 41, 43, 52, 54 and 91 to 94, be decided under the registry law as if the registrations in the office of land titles had been made under *The Registry Act*. R.S.O. 1960, c. 204, s. 59.

R.S.O. 1970,  
c. 409

## PART V

### ASSURANCE FUND

#### CONSTITUTION OF FUND, ETC.

Assurance  
Fund

**61.**—(1) An assurance fund, to be known as The Land Titles Assurance Fund, shall be formed for the indemnity of persons who may be wrongfully deprived of land or some estate or interest therein by reason of the land being brought under this Act, or by reason of some other person being registered as owner through fraud, or by reason of a misdescription, omission or other error in a certificate of ownership of land or of a charge or in an entry on the register. R.S.O. 1960, c. 204, s. 60 (1); 1961-62, c. 70, s. 17 (1).

Where  
Assurance  
Fund is  
less than  
\$1,000,000

(2) Where, on the 31st day of January in any year, the amount standing to the credit of the Assurance Fund is less than \$1,000,000, the Assurance Fund shall be increased by payment into it of a portion of all fees received under this Act during that calendar year, excluding fees paid to the director of titles.

Idem

(3) The portion of fees referred to in subsection 2 shall be fixed by the Lieutenant Governor in Council before the 1st day of March in the same year and shall not exceed 10 per cent of the fees.

(4) Moneys payable under subsection 2 shall be paid into court, with the privity of the Accountant of the Supreme Court, by the masters of titles on or before the 31st day of January in each year in respect of fees received by them during the previous calendar year.

Money to be paid into court

(5) Subject to subsection 6, money standing to the credit of the Assurance Fund and payments received under subsection 4 shall be credited to The Land Titles Assurance Fund Account and shall be invested from time to time under the direction of the Finance Committee of the Supreme Court, and, subject to subsection 7, the interest and income derived therefrom shall be credited to the same account.

Land Titles Assurance Fund Account

(6) The moneys in court at the credit of the Assurance Fund shall on his demand be paid to the Treasurer of Ontario.

Payment to Treasurer of Ontario

(7) The Treasurer of Ontario, on receipt of the moneys paid to him under subsection 6, shall issue to the Accountant of the Supreme Court in trust Ontario Government stock to an amount equal to the sum so received, and the stock shall represent the Assurance Fund and be available for the same purposes.

Treasurer to issue stock for sums received from Assurance Fund

(8) The stock shall be paid or may be redeemed at such time and shall be subject to such conditions as to inscription, registration and transfer as the Lieutenant Governor in Council considers advisable, and shall bear interest at the rate of 2½ per cent per annum.

Conditions of issue

(9) The stock, together with the interest thereon, shall be charged upon and paid out of the Consolidated Revenue Fund. 1966, c. 77, s. 15.

Charge on Consolidated Revenue Fund

**62.** The proper master of titles may require any applicant for registration to indemnify The Land Titles Assurance Fund against loss by a bond or covenant to Her Majesty, either with or without sureties, or by such other security as he considers expedient. 1966, c. 77, s. 16 (1), *part*.

Indemnification of Assurance Fund

**63.**—(1) Where the amount of The Land Titles Assurance Fund exceeds \$500,000 at the beginning of a calendar year, the Accountant of the Supreme Court shall, at the beginning of the following year, transfer to a special account, to be maintained by him and entitled “The Land Titles Survey Fund”, the amount of interest and income that was credited to The Land Titles Assurance Fund during the calendar year first mentioned. 1966, c. 77, s. 16 (1), *part*.

Land Titles Survey Fund

- (2) An application may be made to the director of titles by,
- (a) a registered owner in respect of the costs of a survey of his land;

Payment out of Land Titles Survey Fund

- (b) an applicant for first registration in respect of the costs of a survey of his land; or
- (c) the council of a municipality in respect of the costs of a survey authorized by such council of an area of registered land in the municipality or in respect of the costs of and incidental to an application under section 34,

for financial assistance, and the Minister of Justice and Attorney General upon the recommendation of the director of titles may direct in writing that all or a part of the costs mentioned in the application be paid out of The Land Titles Survey Fund.

Idem

(3) Upon receipt of the direction of the Minister of Justice and Attorney General, the Accountant of the Supreme Court shall pay to the person or municipality named in the direction such sum or sums, at such time or times as are stipulated in the direction, out of The Land Titles Survey Fund, so far as that Fund is sufficient for the purpose. 1966, c. 77, s. 16 (1), *part, amended*.

#### CLAIMS AGAINST FUND

Remedy of person wrongfully deprived of land

**64.**—(1) A person wrongfully deprived of land or of some estate or interest therein, by reason of the land being brought under this Act or by reason of some other person being registered as owner through fraud or by reason of any misdescription, omission or other error in a certificate of ownership or charge, or in an entry on the register, is entitled to recover what is just, by way of compensation or damages, from the person on whose application the erroneous registration was made or who acquired the title through the fraud or error.

Purchaser or mortgagee in good faith for value not liable

(2) Subsection 1 does not render liable any purchaser or mortgagee in good faith for valuable consideration by reason of the vendor or mortgagor having been registered as owner through fraud or error or having derived title from or through a person registered as owner through fraud or error, whether the fraud or error consists in a wrong description of the property or otherwise.

Liability of Fund to compensate person wrongfully deprived

(3) If the person so wrongfully deprived is unable by such means or otherwise to recover just compensation for his loss, he is entitled to have the compensation paid out of the Assurance Fund, so far as it is sufficient for that purpose having reference to other charges thereon, if the application is made within six years from the time of having been so deprived or, in the case of a person under the disability of infancy, mental incompetency or unsoundness of mind, within six years from the date at which the disability ceased. R.S.O. 1960, c. 204, s. 63 (1-3).

Application for compensation from Assurance Fund

(4) A person claiming to be entitled to payment of compensation out of The Land Titles Assurance Fund shall apply to the director of titles who shall make a recommendation to the Director of Land Registration as to the amount, if any, that should be paid.



(5) The liability of the Assurance Fund for compensation and the amount of compensation shall be determined by the Director of Land Registration, and the costs of the proceedings are in the discretion of the Director of Land Registration. How compensation to be determined

(6) The Director of Land Registration shall serve notice of his determination under subsection 5 by registered mail on the claimant. Claimant to be notified

(7) Where the Director of Land Registration determines that compensation should be paid, the claimant, if he intends to appeal, shall, within a period of twenty days after the date of mailing of the notice under subsection 6, serve on the Director of Land Registration notice of his intention to appeal under section 29, and the Director of Land Registration shall not certify under subsection 8 the amount to the Treasurer of Ontario if a notice of appeal is received within that period or until after the expiry of that period if no notice of appeal is received. Appeal

(8) Subject to subsection 7, the Director of Land Registration shall certify to the Treasurer of Ontario any amount found to be payable under this section, and, upon receipt of the Director of Land Registration's certificate, the Treasurer shall pay the amount to the person entitled thereto out of the Consolidated Revenue Fund, and the sums so paid out shall be credited as payments on account of the stock in the hands of the Accountant of the Supreme Court, and the amount of the stock shall be reduced accordingly. 1966, c. 77, s. 7, *part, amended*. Payment out of Assurance Fund

(9) Any sum paid out of the Assurance Fund may afterwards, for the benefit of the Assurance Fund, be recovered by action in the name of the Director of Land Registration from the person on whose application the erroneous registration was made or who acquired the title through the fraud or error or from his estate, and the Director of Land Registration's certificate of the payment out of the Assurance Fund is sufficient proof of the debt, but, where the erroneous registration was made or the title acquired by mere error and without fraud, credit shall be given for any sum that such person may have paid into the Assurance Fund in respect of the land. How Assurance Fund to be recouped

(10) Where a registered disposition would be absolutely void if unregistered or where the effect of the error would be to deprive a person of land of which he is in possession or in receipt of the rents and profits, the Director of Land Registration may, in the first instance or after a reference to the court, direct the rectification of the register and, in case of the rectification, the person suffering by the rectification is entitled to the compensation provided for by this section. R.S.O. 1960, c. 204, s. 63 (6, 7), *amended*. Rectification of register

**65.**—(1) Where a person makes a claim upon The Land Titles Assurance Fund for compensation in respect of land patented as mining land or in respect of land the chief value of which consists Valuation of mining lands



in the ores, mines or minerals therein and it appears that he is entitled to recover in respect of the land or of some interest therein, in determining the amount of compensation to be paid to him, the entire value of the land shall not be taken at a greater sum than twice the amount that was paid for the original grant from the Crown.

Apportion-  
ment  
*pro rata*

(2) Where the amount that was paid for the original grant from the Crown was paid in respect of other land in addition to that for which a claim is so made without it appearing what amount was paid in respect of the particular parcel of land with reference to which the claim is made, the amount so paid, or the portion thereof as to which the fact may not appear to be otherwise, shall be deemed to have been paid *pro rata* in accordance with the acreage or other superficial content of the whole parcel or of the various parcels in respect of which the amount was paid. 1966, c. 77, s. 18.

No com-  
pensation

**66.**—(1) No person is entitled to recover out of the Assurance Fund any compensation,

When  
person first  
registered  
could have  
conveyed  
good title  
to purchaser

(a) where the claim is founded upon a right existing at the time of the first registration of the land and the state of the title of the land at that time was such that the person who was first registered, or the person on whose nomination or authorization the registration was made, by a duly registered conveyance could have conferred, as against the claimant, a valid title to a purchaser in good faith for valuable consideration without notice of any defect in the title, and no sufficient caution had been registered and was in force when the application for first registration was made or a patent was forwarded for registration and the proper master of titles had not actual notice of the defect prior to the first registration;

Where  
claimant  
had notice  
of regis-  
tration  
proceedings

(b) where the claimant, by direction of the proper master of titles or in accordance with the practice of his office, had been served with a notice of the proceedings being had in that office, whether such proceedings were prior or subsequent to first registration, and failed to appear in accordance with the requirements of the notice or if the proper master of titles had adjudicated against him and he had failed to prosecute successfully an appeal against the decision of the proper master of titles; or

Where  
claimant's  
negligence  
has caused  
loss

(c) where the claimant has caused or substantially contributed to the loss by his act, neglect or default, and the omission to register a sufficient caution, notice, inhibition or restriction to protect a mortgage by deposit or other equitable interest or any unregistered right, or other equitable interest or any unregistered interest or

equity created under section 78 or otherwise shall be deemed neglect within the meaning of this clause.

(2) In this section, “claimant” includes the person actually making the claim and any person through whom he alleges was wrongfully deprived of land or of some estate or interest therein. R.S.O. 1960, c. 204, s. 65.

Interpretation

PART VI

PART OWNERS

**67.**—(1) Any two or more persons entitled concurrently or successively, or partly in one mode and partly in another, to such estates, rights or interests in land as together make up such an estate as would, if vested in one person, entitle him to be registered as owner of the land may apply to the proper master of titles to be registered as joint owners in the same manner and with the same incidents, so far as circumstances admit, in and with which it is in this Act declared that an individual owner may be registered. R.S.O. 1960, c. 204, s. 66 (1); 1961-62, c. 70, s. 19.

Registration of part owners

(2) Where several persons are so registered as owners, the entry may, if the parties so desire, define the estates, rights and interests, other than trust estates, rights and interests, to which the owners are respectively entitled, and such entry may be made either upon first registration or subsequently in case the estates, rights or interests so arise. R.S.O. 1960, c. 204, s. 66 (2).

Entry

**68.**—(1) No person shall be registered as owner of an undivided share in freehold or leasehold land or of a charge apart from the other share or shares.

Undivided shares

(2) The share of each owner may be stated and, where the extent of his interest appears on the register or by the statement of his co-owner, he may transfer or charge his share or he may without such statement transfer his share to his co-owner. R.S.O. 1960, c. 204, s. 67.

Rights of part owner

**69.**—(1) A notice of an express, implied or constructive trust shall not be entered on the register or received for registration.

Trusts not to be entered

(2) Describing the owner of freehold or leasehold land or of a charge as a trustee, whether the beneficiary or object of the trust is or is not mentioned, shall be deemed not to be a notice of a trust within the meaning of this section, nor shall such description impose upon any person dealing with the owner the duty of making any inquiry as to the power of the owner in respect of the land or charge or the money secured by the charge, or otherwise, but, subject to the registration of any caution or inhibition, the owner may deal with the land or charge as if such description had not been inserted.

Description of owner as a trustee

Owners described as trustees to be joint tenants

(3) Where two or more owners are described as trustees, the property shall be held to be vested in them as joint tenants unless the contrary is expressly stated.

Saving

(4) Nothing in this section prevents the registration of a charge given for the purpose of securing bonds or debentures of a corporation, but the registration of such a charge is not a guarantee that the proceedings necessary to render the charge valid have been duly taken. R.S.O. 1960, c. 204, s. 68.

Nature of title of registered fiduciary owners

**70.** Any person registered in the place of a deceased owner or to whom a patent is issued as executor or administrator or in any representative capacity shall hold the land or charge, in respect of which he is registered, upon the trusts and for the purposes to which the same is applicable by law and subject to any unregistered estates, rights, interests or equities subject to which the deceased owner held the same, but otherwise in all respects, and in particular as respects any registered dealings with such land or charge, he shall be in the same position as if he had taken the land or charge under a transfer for a valuable consideration. R.S.O. 1960, c. 204, s. 69.

Registration of trustees under R.S.O. 1970, c. 411

**71.**—(1) Where registered land is transferred to trustees under *The Religious Institutions Act*, they shall be registered in their corporate name without setting out the purposes or trusts on which the land is held.

Registration of other trustees R.S.C. 1952, c. 14

(2) A person who has been appointed as a trustee under the *Bankruptcy Act* (Canada) or under any other Act of Canada or Ontario or by the court, upon proof of his entitlement satisfactory to the proper master of titles, may be registered as the owner of registered land or of an interest therein, and he may transfer the same upon proof of compliance with the Act or order under which he was appointed. 1961-62, c. 70, s. 20.

Married woman deemed *feme sole*

**72.** A married woman shall for the purposes of this Act be deemed a *feme sole*. R.S.O. 1960, c. 204, s. 71.

Special entry in certain cases

**73.**—(1) Upon the registration of two or more persons as owners of the same land or of the same charge, an entry may, with their consent, be made on the register to the effect that, when the number of such owners is reduced below a certain specified number, no registered disposition of the land or charge shall be made except under the order of the court.

No survivorship

(2) In such a case, the words "No Survivorship" in the entry mean that, if any one of the owners should die, no registered disposition of the land or charge shall be made except under order of the court. R.S.O. 1960, c. 204, s. 72.

## PART VII

### SUBSEQUENT REGISTRATIONS

#### GENERAL

**74.** Every transfer or charge signed by a registered owner, or others claiming by transfer through or under him, purporting to transfer or charge freehold or leasehold land, or an interest therein, capable of being registered, or purporting to transfer a charge, shall, until cut out by a conflicting registration, confer upon the person intended to take under the transfer or charge a right to be registered as the owner of the land or charge and, where a person applies to be registered under this section, the proper master of titles may, either forthwith or after requiring such notices to be given as he considers expedient, register the applicant as owner, subject to such encumbrances, if any, as the condition of the title requires, notwithstanding that the transfer or charge has been executed or bears date prior to the entry of the transferor or chargor as the owner of the land or charge. R.S.O. 1960, c. 204, s. 73.

Right of transferees and chargees to registration

**75.**—(1) No person, other than the registered owner, is entitled to transfer or charge registered freehold or leasehold land by a registered disposition.

Dealings with registered land

(2) Subject to the maintenance of the estate and right of the registered owner, a person having a sufficient estate or interest in the land may create estates, rights, interests and equities in the same manner as he might do if the land were not registered. R.S.O. 1960, c. 204, s. 74.

Unregistered estates, etc.

**76.**—(1) Where by an order of a court of competent jurisdiction or where by virtue of the operation of an Act of Canada or Ontario registered land or any interest therein is stated by the order or Act to vest, be vested or become vested in, or belong to, the Crown in right of Canada or Ontario or any person other than the registered owner of the land, the registered owner shall be deemed for the purposes of this Act to remain the owner thereof,

Meaning of "vest" or "belong"

- (a) until an application to be registered as owner is made by or on behalf of the Crown or other person in or to whom the land is stated to be vested or to belong; or
- (b) until the land is transferred to the Crown or person by the registered owner,

as the case may be, in accordance with the order or Act. 1961-62, c. 70, s. 21, *part*.

(2) Subsection 1 does not apply to,

Exception

- (a) an expropriation plan registered in accordance with *The Expropriations Act*; or

R.S.O. 1970, c. 154



- R.S.O. 1970,  
c. 201 (b) a plan registered in accordance with *The Highway Improvement Act* in the Department of Highways register mentioned in subsection 2 of section 79 of this Act. 1970, c. 35, s. 8.
- Power of  
attorney  
authorized **77.**—(1) A person may, under a power of attorney, authorize another person to act for him in respect of any land or interest therein under this Act.
- Registration (2) A power of attorney or a certified copy thereof may be registered in the prescribed manner.
- Revocation (3) No registered power of attorney shall be deemed to be revoked until a revocation thereof is registered or evidence is filed with the proper master of titles showing that it is no longer in force. R.S.O. 1960, c. 204, s. 75.
- Protection  
of un-  
registered  
estates **78.** Any person entitled to or interested in any unregistered estates, rights, interests or equities in registered land may protect the same from being impaired by any act of the registered owner by entering on the register such notices, cautions, inhibitions or other restrictions as are authorized by this Act or by the director of titles. R.S.O. 1960, c. 204, s. 76.
- Effect of  
unregistered  
instruments **79.**—(1) No person, other than the parties thereto, shall be deemed to have any notice of the contents of any instruments, other than those mentioned in the existing register of title of the parcel of land or that have been duly entered in the books of the office kept for the entry of instruments received or are in course of entry. R.S.O. 1960, c. 204, s. 77.
- Department  
of Highways  
register (2) For the purposes of subsection 1, the Department of Highways register mentioned in clause *c* of section 182 shall be deemed to be a book kept for the entry of instruments.
- Trans-  
Canada  
Pipe Line  
register (3) Subject to the regulations, the Trans-Canada Pipe Line register established under clause *c* of section 182 shall be deemed, for the purposes of this Act, to be a register of the title of land or interests therein, including easements, owned by Trans-Canada Pipe Lines Limited or Northern Ontario Pipe Line Crown Corporation. 1961-62, c. 70, s. 22.
- Where  
party  
under  
disability **80.**—(1) Where a person who, if not under disability, might have made an application, given consent, or done an act, or been party to a proceeding under this Act is an infant, a mentally defective person or a mentally incompetent person, the guardian of the infant or committee of the estate of the mentally defective person or mentally incompetent person may make such application, give such consent, do such act or be party to such proceeding as such person if free from disability might have made, given, done or been party to, and shall otherwise represent such person for the purposes of this Act.

(2) Where the infant has no guardian or the mentally defective person or mentally incompetent person has not committee of his estate or if a person yet unborn is interested, the Official Guardian shall act with like power or the proper master of titles may appoint a person with like power to act for the infant, mentally defective person, mentally incompetent person or person yet unborn. R.S.O. 1960, c. 204, s. 78. Idem

**81.** Where, on an application for the registration of an instrument after first registration or for the registration of a transmission, the master of titles is unable to come to a clear conclusion as to the action that he should take, he shall delay making the required entry until he has stated the facts to the director of titles for his opinion, and in submitting the case the master of titles shall state his own view and his reasons therefor. R.S.O. 1960, c. 204, s. 79; 1966, c. 77, s. 19. Submission of case to director of titles where master in doubt

**82.** Upon the application of the registered owner, any entry in the register of his title may be amended by the proper master of titles to reflect the effect of other statutes or orders of the court or a change in the name of the owner, or such other changes as have occurred in fact. 1961-62, c. 70, s. 23, *part.* Amendment of register

**83.** In respect of the first registration of land or any subsequent registration of an instrument under this Act, the proper master of titles may require such proof as he considers sufficient, or as is prescribed by the director of titles, of compliance with any Act of Canada or Ontario that if not complied with would affect the title of the first registered owner or the title or interest of the person taking under the subsequent instrument. 1961-62, c. 70, s. 23, *part.* Proof of compliance with other statutes

**84.—(1)** Except as otherwise provided by this Act, every instrument presented for registration by which, when registration thereof is completed, an interest in registered land is created, transferred or terminated shall be deemed to be an application to the proper master of titles to amend the registered title of the land mentioned therein. Instruments deemed applications to amend register

(2) A plan, certificate, order or by-law made under an Act of Canada or Ontario, which when registered has the effect of transferring, vesting or forfeiting registered land or an interest therein, shall be deemed to be an instrument for the purposes of subsection 1. Idem

(3) An agreement or lease or other instrument in respect of which no provision is made by this Act for registration but which is filed in support of or mentioned in a caution, notice of lease or other notice authorized by this Act shall be deemed not to be registered nor to be an instrument for the purposes of subsection 1. 1961-62, c. 70, s. 23, *part.* Certain instruments not within subs. 1

Time of  
receipt to  
be noted

**85.**—(1) The day, hour and minute of the receipt of each instrument presented for registration and of each copy of a writ or lien received under section 153 shall be noted thereon by the officer or clerk receiving the instrument or copy.

Order of  
registration

(2) Subject to the rules, an instrument received for registration shall be registered in the order of time in which it is so received, unless before registration is completed it is withdrawn or the proper master of titles decides that it contains a material error, omission or deficiency or that there is evidence lacking that he considers requisite or declines registration for any other reason, and notifies the parties or their solicitors accordingly within twenty-one days after being so received and allows a period of time not less than seven and not more than thirty days from the date of such notification for correction of the error, omission or deficiency or for furnishing evidence and, when the error, omission or deficiency is corrected or evidence furnished within the time allowed, the instrument has priority as if it had been correct in the first instance, but, if the error, omission or deficiency is not corrected or if evidence is not furnished within the time allowed or if the person desiring registration fails to appeal successfully from the decision, the proper master of titles may proceed with other registrations affecting the land as if the instrument had not been presented for registration, and the proper master of titles shall be deemed not to be affected with notice of the contents of the instrument.

When  
registration  
complete

(3) Registration of an instrument is complete when the entry in the proper register and particulars of registration thereof on the instrument are signed by the proper master of titles, his deputy or a signing officer, and the time of receipt of the instrument shall be deemed to be the time of its registration.

Effect of  
registration

(4) When registered, an instrument shall be deemed to be embodied in the register and to be effective according to its nature and intent, and to create, transfer, charge or discharge, as the case requires, the land or estate or interest therein mentioned in the register.

Priorities

(5) Subject to any entry to the contrary in the register and subject to this Act, instruments registered in respect of or affecting the same estate or interest in the same parcel of registered land as between themselves rank according to the order in which they are entered in the register and not according to the order in which they were created, and, notwithstanding any express, implied or constructive notice, are entitled to priority according to the time of registration.

Postpone-  
ment of  
registered  
rights

(6) Upon registration of an instrument in the prescribed form, the rights of priority acquired by registration may be postponed to rights acquired or claimed under another registered instrument. R.S.O. 1960, c. 204, s. 80.



**86.** Notwithstanding any statute or rule of law, a charge or transfer of registered land may be duly made by an instrument not under seal and, if so made, the instrument and every agreement, stipulation and condition therein has the same effect for all purposes as if made under seal, but this section does not apply to the execution of a transfer or charge by a corporation. R.S.O. 1960, c. 204, s. 81; 1961-62, c. 70, s. 24.

Charges and transfers may be made without seal

**87.** The proper master of titles may enter as owner of freehold or leasehold land or of a charge any person who is entitled to the land or charge through the death of the owner, although the deceased had not been registered as owner, or any person who is entitled by virtue of the exercise of a power conferred by a statute, will, deed or other instrument, whether the person so entitled claims directly from the deceased or directly under the power, or through any other person entitled by virtue of the death or power or through a succession of transfers or transmissions. R.S.O. 1960, c. 204, s. 82.

Right to registration

**88.**—(1) An instrument executed by a registered owner or a person entitled to be registered as owner, when presented for registration, shall be accompanied by an affidavit as to the execution by, and the identity and age of, the owner or person so entitled or such evidence as the proper master of titles requires. R.S.O. 1960, c. 204, s. 83.

Evidence necessary for registration

(2) In subsection 1, “registered owner” means the registered owner of freehold or leasehold land or of a charge. 1961-62, c. 70, s. 25.

Application of subs. 1

**89.** Where an instrument made in accordance with the forms in use or sufficient to pass an estate or interest in land under *The Registry Act* deals with land under this Act, the proper master of titles may, in his discretion, register it under this Act and, when so registered, it has the same effect as if made in the prescribed form. R.S.O. 1960, c. 204, s. 84.

Registration of instruments not in prescribed form  
R.S.O. 1970, c. 409

#### TRANSFERS

**90.**—(1) A registered owner may transfer land or any part thereof in the prescribed manner.

Transfer of land

(2) The transfer shall be completed by the proper master of titles entering on the register the transferee as owner of the land transferred, and the transferor shall be deemed to remain owner of the land until the registration of the transfer has been completed in accordance with this Act. R.S.O. 1960, c. 204, s. 85.

Registering transferee as owner

**91.** A transfer for valuable consideration of land registered with an absolute title, when registered, confers on the transferee an estate in fee simple in the land transferred, together with all rights, privileges and appurtenances, subject to,

Estate of transferee for valuable consideration of land with absolute title



- (a) the encumbrances, if any, entered or noted on the register; and
- (b) the liabilities, rights and interests, if any, as are declared for the purposes of this Act not to be encumbrances, unless the contrary is expressed on the register,

and as to such rights, privileges and appurtenances, subject also to any qualifications, limitation or encumbrance to which the same are expressed to be subject in the register, or where such rights, privileges and appurtenances are not registered, then subject to any qualification, limitation or encumbrance to which the same are subject at the time of the transfer, but free from all estates and interests whatsoever, including estates and interests of Her Majesty, that are within the legislative jurisdiction of Ontario. R.S.O. 1960, c. 204, s. 86.

Estate of transferee for valuable consideration of land with qualified title

**92.** A transfer for valuable consideration of land registered with a qualified title, when registered, has the same effect as a transfer for valuable consideration of the same land registered with an absolute title, except that such transfer does not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. R.S.O. 1960, c. 204, s. 87.

Estate of transferee for valuable consideration of land with possessory title

**93.** A transfer for valuable consideration of land registered with a possessory title does not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered owner, and subsisting, or capable of arising, at the time of the first registration, but otherwise, when registered, has the same effect as a transfer for valuable consideration of the same land registered with an absolute title. R.S.O. 1960, c. 204, s. 88.

Estate of voluntary transferee of land

**94.** A transfer of registered land, made without valuable consideration, is subject, so far as the transferee is concerned, to any unregistered estates, rights, interests or equities subject to which the transferor held the same, but otherwise, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee, has the same effect as a transfer of the same land for valuable consideration. R.S.O. 1960, c. 204, s. 89.

Purchasers for value not affected by omission to send notices

**95.** A purchaser for valuable consideration when registered is not affected by the omission to send any notice directed to be given by this Act, or by the non-receipt thereof. R.S.O. 1960, c. 204, s. 90.

Interpretation

**96.—**(1) In this section,

- (a) “owner to uses” means a transferee registered under a transfer to uses;
- (b) “transfer to uses” means a transfer expressed to be given to such uses as the transferee may appoint by transfer, charge or will;

(c) "unencumbered interest" means the interest that an owner to uses is capable of appointing.

(2) A transfer to uses may be registered.

Transfer to uses may be registered

(3) An owner to uses may exercise his power of appointment by a transfer or charge in the prescribed form or by his will.

Exercise of power of appointment

(4) An appointment by way of charge by an owner to uses does not exhaust his power of appointment.

Charge does not exhaust power

(5) Notwithstanding the registration of a cessation of a charge,

Effect of cessation of charge

(a) that was made by way of appointment by the owner to uses; or

(b) to which the land was subject when he became the owner to uses,

the owner to uses may exercise his power of appointment as though the charge had not been made.

(6) An owner to uses who dies without having exercised his power of appointment by transfer, charge or will shall be deemed to have appointed the land by way of transfer to himself immediately before his death.

Effect of default of appointment

(7) An owner to uses who has appointed the land or a part thereof in respect of which he has a power of appointment by way of charge and who dies without having appointed by way of transfer or will shall be deemed to have appointed the unencumbered interest in the land by way of transfer to himself immediately before his death.

Idem

(8) Until the death of an owner to uses who is a married man, his wife has no right to dower in the land of which he is the owner to uses.

No inchoate dower right

(9) The widow of an owner to uses, unless otherwise disentitled, has a right to dower only in the unencumbered interest her husband had in the land of which he was the owner to uses at the date of his death. 1961-62, c. 70, s. 26.

Where widow entitled to dower

**97.**—(1) A transfer or charge in which the transferee or chargee is a corporation, other than a municipal corporation or a corporation that was incorporated by an Act of Canada or Ontario, shall not be registered unless,

Registration of letters patent or articles of incorporation

(a) the letters patent or articles of incorporation of the corporation; or

(b) a licence under which the corporation is empowered to hold land in Ontario,

or a notarial copy thereof, is registered in the companies register or other register kept in the office of land titles for the registration of such instruments.

Supple-  
mentary  
letters  
patent  
or amended  
articles

(2) Where the name of a corporation within the purview of subsection 1 has been changed or where the corporation has been amalgamated with or absorbed by another corporation, the letters patent effecting the change, or a notarial copy thereof, shall be registered before the registration of any transfer or charge given by or to the changed corporation.

Where incor-  
poration by  
special Act

(3) A transfer or charge in which the transferee or chargee is a corporation that was incorporated by an Act of Canada or Ontario shall not be registered until the proper master of titles is satisfied of the fact of such incorporation.

Licence to  
hold land

(4) A transfer or charge in which the transferee or chargee is a corporation, other than a corporation that was incorporated by or under an Act of Ontario or Quebec, shall not be registered, unless the licence under which the corporation is empowered to hold land in Ontario, or a notarial copy thereof, is registered under subsection 1 or unless the corporation is permitted by law to own land or charges on land in Ontario without a licence.

Compared  
copy of  
letters  
patent  
or articles

(5) The proper master of titles may register a copy compared by him with the original letters or articles patent in lieu of a notarial copy thereof. 1961-62, c. 70, s. 27, *amended*.

#### CHARGES AND ENCUMBRANCES

Creation of  
charges

**98.**—(1) A registered owner may in the prescribed manner charge the land with the payment at an appointed time of any principal sum of money either with or without interest or as security for any other purpose and with or without a power of sale.

Charge how  
completed

(2) The charge shall be completed by the proper master of titles entering on the register the person in whose favour the charge is made as the owner of the charge, stating the amount of the principal sum that the charge secures, with the rate of interest and the periods of payment, or the other purposes for which the charge is given.

Effect of  
charge when  
registered

(3) The charge, when registered, confers upon the chargee a charge upon the interest of the chargor as appearing in the register subject to the encumbrances and qualifications to which his interest is subject, but free from any unregistered interests in the land.

Where  
advances  
under  
registered  
charge to  
have  
priority  
over  
subsequent  
charges

(4) A registered charge is, as against the chargor, his heirs, executors, administrators, assigns and every other person claiming by, through or under him, a security upon the land thereby charged to the extent of the money or money's worth actually advanced or supplied under the charge, not exceeding the amount for which the charge is expressed to be a security, notwithstanding that the money or money's worth, or some part thereof, was advanced or supplied after the registration of a transfer, charge or

other instrument affecting the land charged, executed by the chargor, his heirs, executors or administrators and registered subsequently to the first-mentioned charge, unless, before advancing or supplying the money or money's worth, the registered owner of the first-mentioned charge had actual notice of the execution and registration of such transfer, charge or other instrument, and the registration of such transfer, charge or other instrument after the registration of the first-mentioned charge does not constitute actual notice.

(5) An instrument in the nature of a deed of trust and mortgage that provides for the issuance of bonds or debentures may, upon the authorization of the parties thereto or their solicitors, be registered as a charge upon the lands of the grantor, and the entry in the register shall state the aggregate principal sum and the rate of interest of such bonds or debentures.

Bond mortgage may be registered as charge upon authorization of parties

(6) The authorization mentioned in subsection 5 shall identify the lands to be charged in each land titles office and state the aggregate principal sum and interest rate of the bonds or debentures mentioned in that subsection.

What to be included in the authorization

(7) Until a charge registered under subsection 5 has been discharged, no transfer or charge of the lands shall be subsequently registered without the written consent of the chargee.

Consent of chargee to subsequent dealings

(8) A certificate of a charge registered under subsection 5 may be granted as in the case of other charges.

Certificate

(9) A charge registered under subsection 5 may be discharged by a cessation in the prescribed form. R.S.O. 1960, c. 204, s. 92.

Cessation

**99.**—(1) Where a registered charge of freehold land is created, there shall be implied on the part of the registered owner of the land at the time of the creation of the charge, his heirs, executors, administrators and successors, unless there is an entry on the register negating the implication, covenants with the registered owner for the time being of the charge,

Implied covenant to pay charges

- (a) to pay the principal sum charged and interest, if any, thereon at the appointed time and rate, and all taxes, rates, charges, rents, statute labour or other impositions theretofore or thereafter imposed or charged on the land, and that, in case of default, all payments made by the owner of the charge may be added to the principal sum and bear interest; and
- (b) if the principal sum or any part thereof is unpaid at the appointed time, to pay interest half-yearly at the appointed rate on so much of the principal sum as for the time being remains unpaid.



Provision where charge expressed to be made under R.S.O. 1970, c. 437

(2) Where a charge, whether or not under seal, is expressed to be made in pursuance of *The Short Forms of Mortgages Act*, or refers thereto, and contains any form of words numbered 1, 2, 3, 7, 8, 12, 14, 15 or 16 in Column One of Schedule B to that Act, whether expressed in the first or third person, such words have the same meaning and effect as the words under the corresponding number in Column Two of that Schedule, and the provisions of that Act apply to the charge.

When chargee may distrain for arrears of interest

(3) Where in a charge made in pursuance of *The Short Forms of Mortgages Act* there is inserted the provision that the chargee may distrain for arrears of interest, such provision confers upon the chargee the same right of distress as would be conferred upon a mortgagee of land not under the provisions of this Act. R.S.O. 1960, c. 204, s. 93.

Implied covenants in charge of leaseholds

**100.** Where a registered charge of leasehold land is created, there shall be implied on the part of the registered owner of the leasehold land at the time of the creation of the charge, his heirs, executors, administrators and successors, unless there is an entry on the register negating the implication, covenants with the registered owner for the time being of the charge,

- (a) that the registered owner of the leasehold land, at the time of the creation of the charge, his executors, administrators or assigns will pay, perform and observe the rent, covenants and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed and observed; and
- (b) will keep the owner of the charge, his executors, administrators and assigns indemnified against all actions, suits, expenses and claims on account of the non-payment of such rent, or any part thereof, or the breach of such covenants or conditions or any of them. R.S.O. 1960, c. 204, s. 94.

Entry by owner of charge

**101.** Subject to an entry to the contrary on the register, the registered owner of a registered charge, for the purpose of obtaining satisfaction of any money due to him under the charge, at any time during the continuance of the charge, may enter upon the land charged, or any part thereof, or into the receipt of the rents and profits thereof, subject nevertheless to the right of any person appearing on the register to be prior encumbrancer, and to the liability attached to a mortgagee in possession. R.S.O. 1960, c. 204, s. 95.

Foreclosure by owner of charge

**102.** Subject to an entry to the contrary on the register, the registered owner of a registered charge may enforce it by foreclosure or sale in the same manner and under the same circumstances in and under which he might enforce it if the land had been transferred to him by way of mortgage, subject to a proviso for redemption. R.S.O. 1960, c. 204, s. 96.

**103.**—(1) Subject to *The Mortgages Act*, the registered owner of a registered charge that contains a power of sale, upon production of evidence satisfactory to the master of titles, may sell and transfer the interest in the land or any part thereof that is the subject of the charge in accordance with the terms of the power in the same manner as if he were the registered owner of the land to the extent of such interest therein.

Remedy of owner of charge with power of sale  
R.S.O. 1970, c. 279

(2) Upon the registration of a transfer under subsection 1 and upon satisfactory evidence being produced, the master of titles may delete from the register the entry of an instrument or writ appearing to rank subsequent to the charge under which the land is sold, and thereupon the interest of every person claiming under such subsequent instrument or writ ceases to affect the land. 1966, c. 77, s. 20.

Effect of sale by chargee

**104.** No person, other than the registered owner of a registered charge, is entitled to register a transfer of the charge, but, subject to the maintenance of the right of such owner, unregistered interests in a registered charge may be created in the same manner and with the same incidents, so far as the difference of the subject-matter admits, in and with which unregistered estates and interests may be created in registered land. R.S.O. 1960, c. 204, s. 98.

Dealings with registered charge

**105.**—(1) The registered owner of a registered charge may, in the prescribed manner, transfer the charge to another person as owner.

Transfer of charges

(2) The transfer shall be completed by the proper master of titles entering on the register the transferee as owner of the charge transferred.

Transfer completed by entry on register

(3) The transfer, when registered, confers upon the transferee the ownership of the charge free from any unregistered interests therein, and the transfer of part of the sum secured by a charge confers upon the transferee the ownership of such part free from any unregistered interests therein.

Effect of registration of transfer

(4) Every transfer of a charge is subject to the state of account upon the charge between the chargor and the chargee.

As between chargor and chargee

(5) The proper master of titles shall, if required, deliver to the transferee a certificate of charge.

Delivery of fresh certificate

(6) The transferor shall be deemed to remain owner of the charge until registration of the transfer of charge has been completed in accordance with this Act.

Transferor deemed owner until registration

(7) The registered owner of a registered charge may transfer a part of the sum secured by the charge, and the part so transferred may be given priority over the remaining part, or may be deferred or may continue to rank equally with it as is stated in the transfer. R.S.O. 1960, c. 204, s. 99.

Transfer of part of a charge

Transfer of  
charge may  
include pro-  
vision to  
retransfer

(8) A charge of a charge shall not be registered, but a charge may be transferred subject to a provision to retransfer it to the transferor of the charge upon the payment of a sum of money either with or without interest, or upon the performance of any other condition, and, until the charge has been retransferred, the transferee of the charge shall for the purposes of this Act be deemed to be the absolute owner thereof. 1961-62, c. 70, s. 29.

Cessation of  
en-  
cumbrance

**106.**—(1) The proper master of titles shall, on the requisition of the registered owner of land and on due proof of the satisfaction of a charge thereon, or may, on the requisition of the registered owner of a registered charge or of his personal representative or on his certificate of the satisfaction thereof, note on the register in the prescribed manner the cessation of the charge, and thereupon the charge ceases.

Other en-  
cumbrances

(2) The proper master of titles may in like manner and with the like effect note the cessation of any other encumbrance.

Partial  
cessation  
of charge

(3) On the requisition or certificate of the registered owner of a registered charge or of the personal representative of such owner authorizing or certifying the discharge of any part of the land therefrom or the discharge of any part of the money thereby secured, the proper master of titles may note on the register the discharge of such land from the charge or the discharge of such part of the money, and thereupon the charge ceases as to the land or money discharged.

Death of  
person  
certifying  
to cessation  
of charge

(4) The death of the person who signed the requisition or certificate does not revoke or otherwise affect the discharge. R.S.O. 1960, c. 204, s. 100.

Complete  
or partial  
discharge of  
en-  
cumbrance  
existing at  
first  
registration

**107.**—(1) Where upon the first registration of land notice of an encumbrance affecting the land has been entered on the register, the proper master of titles, on proof to his satisfaction of the discharge of the encumbrance, shall note in the prescribed manner on the register the cessation of the encumbrance and thereupon the encumbrance ceases.

Note of  
discharge  
on requisi-  
tion of  
mortgagee

(2) On the requisition or certificate of a mortgagee whose mortgage was entered on the register on the first registration of the land, or the registered assignee thereof, or of the personal representative of such mortgagee or assignee, authorizing or certifying the discharge of the whole or a part of the land therefrom, or the discharge of the whole or a part of the money thereby secured, the proper master of titles may note on the register the discharge of the land from the mortgage or the discharge of the part of the money, and thereupon the encumbrance ceases as to the land or money discharged.

Death of  
person after  
signing  
requisition

(3) The death of the person who signed the requisition or certificate does not revoke or otherwise affect it. R.S.O. 1960, c. 204, s. 101.



**108.** Where it appears to the satisfaction of the proper master of titles that a lien under *The Mechanics' Lien Act* has ceased to exist, he may make an entry in the register cancelling the claim, and thereupon the claim ceases to affect the land. R.S.O. 1960, c. 204, s. 102.

Cancellation of mechanic's lien  
R.S.O. 1970, c. 267

#### LEASEHOLD INTERESTS

**109.**—(1) A registered owner of leasehold land may, in the prescribed manner, transfer the whole of his estate in the land or in a part thereof.

Transfer of leasehold land

(2) The transfer shall be completed by the proper master of titles entering on the register the transferee as owner of the leasehold land transferred and, until the registration of the transfer has been completed in accordance with this Act, the transferor shall be deemed to remain owner. R.S.O. 1960, c. 204, s. 103.

Transferor deemed owner until registration

**110.** A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, when registered, vests in the transferee the land transferred for all the leasehold estate described in the registered lease relating to such land and then unexpired, with all implied or expressed rights, privileges and appurtenances, free from all estates and interests whatsoever, including any estates and interests of Her Majesty, that are within the legislative jurisdiction of Ontario, but subject to the following:

Estate of transferee for valuable consideration of leasehold land with a declaration of absolute title of lessor

1. All implied and express covenants, obligations and liabilities incident to such estate.
2. The encumbrances, if any, entered or noted on the register.
3. The liabilities, rights and interests that affect the leasehold estate and that are by this Act declared not to be encumbrances in the case of registered freehold land unless the contrary is expressed on the register. R.S.O. 1960, c. 204, s. 104, *amended*.

**111.** A transfer for valuable consideration of leasehold land, registered without a declaration of the title of the lessor, does not affect the enforcement of any estate, right or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held, but otherwise, when registered, has the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R.S.O. 1960, c. 204, s. 105.

Estate of transferee for valuable consideration of leasehold land without a declaration of title of lessor



Estate of transferee for valuable consideration of leasehold land with a declaration of qualified title of lessor

**112.** A transfer for valuable consideration of leasehold land, registered with a declaration that the lessor had a qualified title to grant the lease under which the land is held, when registered, has the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, except that such transfer does not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted from the effect of registration. R.S.O. 1960, c. 204, s. 106.

Estate of voluntary transferee of leasehold land

**113.** A transfer of registered leasehold land made without valuable consideration is subject, so far as the transferee is concerned, to any unregistered estates, rights, interests or equities subject to which the transferor held the same, but otherwise, when registered, in all respects and in particular as respects registered dealings on the part of the transferee, has the same effect as a transfer of the same land for valuable consideration. R.S.O. 1960, c. 204, s. 107.

Implied covenants on transfer of leasehold estates

**114.** On the transfer of registered leasehold land, unless there is an entry on the register negating such implication, there shall be implied,

- (a) on the part of the transferor a covenant with the transferee that, notwithstanding anything by such transferor done, omitted or knowingly suffered, the rents, covenants and conditions reserved and contained by and in the registered lease, and on the part of the lessee to be paid, performed and observed, have been so paid, performed and observed up to the date of the transfer; and
- (b) on the part of the transferee a covenant with the transferor that the transferee, his executors, administrators or assigns will pay, perform and observe the rents, covenants and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed and observed, and will keep the transferor, his executors, administrators and assigns indemnified against all actions, suits, expenses and claims on account of the non-payment of the rent or a part thereof, or the breach of the covenants or conditions or any of them. R.S.O. 1960, c. 204, s. 108.

Lessee may apply for registration of notice of lease

**115.—**(1) A lessee or other person entitled to or interested in a lease or agreement for a lease of registered land may apply to the proper master of titles to register notice of the lease or agreement in the prescribed manner. 1966, c. 77, s. 21 (1).

Lease by registered owner

(2) Where the lease is by the registered owner of the land, the proper master of titles may without notice to him enter on the

register such notice thereof as he considers necessary. R.S.O. 1960, c. 204, s. 109 (2).

(3) Where the lease or agreement for a lease is not by the registered owner but his title appears to be subject thereto, the proper master of titles, with the concurrence of the owner, may enter notice of the lease or agreement on the register. 1966, c. 77, s. 21 (2). Lease not by registered owner

(4) The applicant shall deliver to the proper master of titles the original lease or agreement or a copy thereof and, if the application is granted, the proper master of titles shall make a note on the register identifying the lease or agreement, and the lease or agreement or copy so deposited shall be deemed to be the instrument of which notice is given. Lease or copy to be deposited

(5) If the registered owner concurs in a registration under subsection 2 or 3, notice may be entered in such manner as is agreed upon. Where registered owner concurs

(6) Where notice of a lease or agreement for a lease is registered, every registered owner of the land and every person deriving title through him, excepting owners of encumbrances registered prior to the registration of such notice, shall be deemed to be affected with notice of the lease or agreement as being an encumbrance on the land in respect of which the notice is entered. Effect of registration

(7) Where notice of a lease or agreement for a lease has been registered, a notice of, Notice of interest in lease

- (a) a sublease;
- (b) an assignment of the lease;
- (c) a charge of the lease;
- (d) an assignment of the lessor's interest in the lease; or
- (e) a determination of the lease,

may be registered in the prescribed form. R.S.O. 1960, c. 204, s. 109 (4-7).

(8) Subject to paragraph 4 of subsection 1 of section 51 and except where the person claiming an interest under a lease or agreement for a lease of which interest a notice has been registered has actual notice of another interest under the lease or agreement for a lease or under another lease or agreement for a lease, the first-mentioned interest under the lease or under the agreement for a lease takes priority over one of which a notice has not been registered. 1961-62, c. 70, s. 30. Priorities under leases

**116.** The proper master of titles, on proof to his satisfaction of the determination of a lease of registered land existing at first registration, shall note on the register the determination of the lease. R.S.O. 1960, c. 204, s. 110. Determination of lease existing at first registration

## CERTIFICATES

Certificate  
of ownership  
on first  
registration

**117.**—(1) The proper master of titles shall, if required by the first registered owner of freehold land, deliver to him a certificate in the prescribed form, in this Act called a “certificate of ownership”, which shall state whether the title of the owner is absolute, qualified or possessory.

Certificate  
of ownership  
on transfer

(2) Upon the registration of a transfer of freehold land, the proper master of titles shall, if required, deliver to the transferee a certificate of ownership.

Where part  
only is  
transferred

(3) Where part only of the land is transferred, the proper master of titles shall, if required, deliver to the transferor a certificate of ownership containing a description of the land retained by him. R.S.O. 1960, c. 204, s. 111.

Office copy  
of lease  
given on  
first regis-  
tration of  
leasehold

**118.**—(1) The proper master of titles shall, if required by the first registered owner of leasehold land, deliver to him an authenticated copy of the registered lease, in this Act called an “office copy”, and there shall be endorsed thereon a statement whether any declaration, absolute or qualified, as to the title of the lessor has been made, and any other particulars relating to the lease entered in the register.

Office copy  
of lease  
on transfer

(2) Upon completion of the registration of a transfer of leasehold land, if the transfer includes the whole of the land comprised in the registered lease relating to such land, the transferee is entitled to an office copy of the registered lease.

Where part  
only is  
transferred

(3) Where part only of the land comprised in a registered lease is transferred, the proper master of titles shall, if required, deliver to the transferor an office copy of the registered lease. R.S.O. 1960, c. 204, s. 112.

Certificate  
of ownership  
of leasehold  
land

**119.** Upon the application of the registered owner of leasehold land, the proper master of titles may, in his discretion, deliver to the owner a certificate of ownership of leasehold land in the prescribed form instead of or in addition to an office copy of the lease. R.S.O. 1960, c. 204, s. 113.

Certificate  
of charge

**120.** The proper master of titles shall, if required, deliver to the owner of a charge a certificate of charge in the prescribed form. R.S.O. 1960, c. 204, s. 114.

Certificate  
for part  
owner

**121.** The proper master of titles shall, if required, deliver to the persons entitled to several estates as mentioned in section 67 or owners who are tenants in common or joint tenants one certificate in respect of the whole estate or to each person, when the extent of his interest is defined, a certificate of ownership in respect of his own estate, but, when a certificate for the whole is outstanding, no separate certificate shall be delivered until the outstanding certificate is returned and cancelled. R.S.O. 1960, c. 204, s. 115.

**122.** A certificate of ownership or a certificate of charge is *prima facie* evidence of the matters therein contained, and an office copy of a registered lease is *prima facie* evidence of the contents of the registered lease. R.S.O. 1960, c. 204, s. 116.

Certificates,  
etc., to be  
evidence

**123.** Subject to any registered estates, charges or rights, the deposit of a certificate of ownership or of an office copy of a registered lease for the purpose of creating a lien on the land to which the certificate or lease relates shall be deemed equivalent to a deposit of the title deeds of the land. R.S.O. 1960, c. 204, s. 117.

Effect of  
deposit  
of certificate  
or office  
copy of lease

**124.** Where upon an application for the registration of a charge or of a transfer of land or of a transfer of a charge the proper master of titles considers it expedient to require the production of the certificate of ownership, either for the purpose of identifying the person dealing with the land or charge or for cancellation or for any other purpose, he may do so, and may decline to register the instrument until the certificate has been produced and, if the certificate is not produced within such time as the proper master of titles limits, he may return the instrument. R.S.O. 1960, c. 204, s. 118.

Production  
of certificate  
of ownership

**125.**—(1) A person who is entitled to have a transfer or charge entered on the register may require the holder of the certificate of ownership, if any is outstanding, to produce the certificate to the proper master of titles, or to deliver it to the person so entitled for production for the purpose of having all proper entries or alterations made thereon by the proper master of titles or for cancellation.

Right to  
compel  
production  
of certificate  
of ownership

(2) A person entitled to have a cessation of a charge registered may require the production of an outstanding certificate of the charge in like manner for cancellation. R.S.O. 1960, c. 204, s. 119.

Certificate  
of ownership  
of a charge  
which has  
ceased

**126.**—(1) If a certificate of ownership or an office copy of a registered lease or certificate of charge is lost, mislaid or destroyed, the proper master of titles, upon being satisfied of that fact, may deliver a new certificate of ownership or office copy or certificate of charge in place of the former one.

Loss of  
certificate,  
etc.

(2) The proper master of titles may, upon the delivery to him of a certificate of ownership or of an office copy of a registered lease or of a certificate of charge, deliver a new certificate of ownership or office copy or certificate of charge in place of the one so delivered. R.S.O. 1960, c. 204, s. 120.

Renewal of  
certificates,  
etc.

**127.**—(1) The proper master of titles may issue to any person entitled to inspect the register of title a certificate of search in the prescribed form or in such form as may be authorized by the director of titles.

Certificate  
of search



Idem (2) A certificate of search is *prima facie* evidence of the matters therein contained. 1961-62, c. 70, s. 31.

#### RESTRICTIONS, ETC.

Power to  
place re-  
strictions  
on register

**128.**—(1) Where the registered owner of freehold or leasehold land or of a charge desires to impose restrictions on transferring or charging the land or charge, he may apply to the proper master of titles to make an entry on the register that no transfer shall be made or charge created unless the following things, or such of them as the owner determines, are done:

1. Notice of an application for a transfer or for the creation of a charge is transmitted by registered mail to such address as he specifies to the proper master of titles.
2. The consent of some person or persons, to be named by him, is given to the transfer or the creation of a charge.
3. Some other matter or thing is done as is required by him and approved by the proper master of titles.

Master to  
enter  
restrictions  
in register

(2) If the proper master of titles is satisfied of the right of the applicant to impose such restrictions, he shall make a note of them on the register and no transfer shall be made or charge created except in conformity therewith.

Discretion  
of the  
master

(3) The proper master of titles is not required to enter a note of a restriction, except upon such terms as to payment of the fees and otherwise as are prescribed, or to enter a note of a restriction that he considers unreasonable or calculated to cause inconvenience.

Restrictions  
may be  
withdrawn  
or set  
aside

(4) Any such restriction may at any time be withdrawn or modified at the instance of all the persons for the time being appearing by the register to be interested in the restriction, and is also subject to be set aside by the court. R.S.O. 1960, c. 204, s. 121.

Registration  
of conditions  
and restric-  
tions, on  
application

**129.**—(1) Upon the application of the owner of land that is being registered or of the registered owner of land, the proper master of titles may register as annexed to the land a condition or restriction that the land or a specified part thereof is not to be built upon, or is to be or is not to be used in a particular manner, or any other condition or restriction running with or capable of being legally annexed to land.

Registration  
of conditions,  
restrictions  
and  
covenants,  
on transfer

(2) The proper master of titles may register as annexed to the land a condition, restriction or covenant that is included in a transfer of registered land that the land or a specified part thereof is not to be built upon, or is to be or is not to be used in a particular manner, or any other condition, restriction or covenant running with or capable of being legally annexed to land.

(3) Upon the application of the owner of land that is being registered or of the registered owner of land, the proper master of titles may register as annexed to the land a covenant that the land or a specified part thereof is not to be built upon, or is to be or is not to be used in a particular manner, or any other covenant running with or capable of being legally annexed to land.

Registration of covenants, on application

(4) A covenant shall not be registered under subsection 3 unless,

Idem

- (a) the covenantor is the owner of the land to be burdened by the covenant;
- (b) the covenantee is a person other than the covenantor;
- (c) the covenantee owns land to be benefited by the covenant and that land is mentioned in the covenant; and
- (d) the covenantor signs the application to assume the burden of the covenant. 1961-62, c. 70, s. 32 (1).

(5) The first owner and every transferee, and every other person deriving title from him, shall be deemed to be affected with notice of such condition or covenant, but any such condition or covenant may be modified or discharged by order of the court on proof to the satisfaction of the court that the modification will be beneficial to the persons principally interested in the enforcement of the condition or covenant.

Notice and modification or discharge of covenants

(6) The entry on the register of a condition or covenant as running with or annexed to land does not make it run with the land, if such covenant or condition on account of its nature, or of the manner in which it is expressed, would not otherwise be annexed to or run with the land.

Covenants or conditions running with land

(7) Where a condition or covenant has been entered on the register as annexed to or running with land and a similar condition is contained in a subsequent transfer or a similar covenant is in express terms entered into with the owner of the land by a subsequent transferee, or *vice versa*, it is not necessary to repeat the condition or covenant on the register or to refer thereto, but the proper master of titles may, upon a special application, enter the condition or covenant either in addition to or in lieu of the condition or covenant first mentioned.

Subsequent transfers

(8) Where a condition or covenant has been entered on the register as annexed to or running with land for a fixed period and the period has expired, the proper master of titles may, at any time after ten years from the expiration of the period, remove the entry from the register. R.S.O. 1960, c. 204, s. 122 (2-5).

Removal of entry of condition or covenant from register

(9) Where a condition, restriction or covenant has been registered as annexed to or running with land and no period or date was fixed for its expiry, the entry of the condition, restriction or covenant may be deleted from the register by the proper master of

Deletion from register after 40 years

titles upon an application being made by any person interested in the land at any time after forty years after the condition, restriction or covenant was registered, and the condition, restriction or covenant thereupon ceases to be enforceable.

Effect of  
conditions  
and restric-  
tions

(10) Where a condition or restriction has been registered as annexed to land, the condition or restriction is as binding upon any person who becomes the registered owner of the land or a part thereof as if the condition or restriction had been in the form of a covenant entered into by the person who was the registered owner of the land at the time of the registration of the condition or restriction. 1961-62, c. 70, s. 32 (2).

#### DOVER AND CURTESY

Execution  
of  
instruments  
by married  
women

**130.** A married woman may execute without seal any bar of dower or other instrument under this Act, and her husband need not be a party thereto, and she may bar her dower in land sold or charged by her husband for value, although she is under the age of twenty-one years. R.S.O. 1960, c. 204, s. 123.

Claim that  
land is  
free from  
dower

**131.**—(1) Where a person claims that registered land is free from dower and no instrument can be produced and registered showing release of dower by the wife of the registered owner, the proper master of titles may, upon satisfactory evidence produced before him, give notice to the wife to support her claim to dower in the registered land within thirty days.

Wife barred  
after failure  
to claim  
dower

(2) If the wife of the registered owner fails to claim her dower within the thirty days, the proper master of titles may enter on the register a note that the land is free from dower, and this entry is a bar to any claim for dower by the wife.

Dower claim  
decided by  
master

(3) If the wife of the registered owner claims her right to dower within the thirty days, the proper master of titles may hear and determine her claim.

Interpre-  
tation

(4) In this section, “wife of the registered owner” includes the widow of a former owner. R.S.O. 1960, c. 204, s. 124.

Dower  
where  
encumbered  
land  
transferred

**132.** The wife of a registered owner of land is not entitled to dower therein,

- (a) where the registered owner acquired the land subject to a charge and transferred the land subject to that charge; or
- (b) where the registered owner charged the land, subsequently became married to the wife, and transferred the land subject to that charge. R.S.O. 1960, c. 204, s. 125.

Registration  
of notices  
of estates  
in dower  
or by  
the curtesy

**133.** A person entitled to an estate in dower or by the curtesy in registered land may apply in the prescribed manner to the proper master of titles to register notice of such estate, and the

proper master of titles, if satisfied of the title of such person to such estate, shall register notice of the same accordingly in the prescribed form, and, when so registered, such estate is an encumbrance appearing on the register and shall be dealt with accordingly. R.S.O. 1960, c. 204, s. 126.

#### DEATH OF REGISTERED OWNER

**134.** On the death of the sole registered owner or of the survivor of several joint registered owners of freehold land, such person shall be registered as owner in the place of the deceased owner or owners as may, on the application of any person interested in the land, be appointed by the proper master of titles, regard being had to the rights of the several persons interested in the land and in particular to the selection of any such person as for the time being appears to the proper master of titles to be entitled according to law to be so appointed, subject to an appeal to the court in the prescribed manner by any person aggrieved by an order of the proper master of titles under this section. R.S.O. 1960, c. 204, s. 127.

Transmis-  
sion on  
death of  
owner of  
freehold  
land

**135.** On the death of the sole registered owner or of the survivor of several joint registered owners of leasehold land or of a charge, the executor or administrator of such sole deceased owner or of the survivor of such joint owners is entitled to be registered as owner in his place. R.S.O. 1960, c. 204, s. 128.

Transmis-  
sion on  
death of  
owner of  
leasehold  
land or of  
charge

**136.** Where two or more persons holding as tenants in common have been entered as owners of land or a charge and one of them dies, his personal representative, or such other person as is entitled to the share of the deceased, may be entered as owner with the survivor or survivors. R.S.O. 1960, c. 204, s. 129.

Entry of  
repre-  
sentatives of  
deceased  
tenant in  
common

**137.** Where two or more persons holding as joint tenants have been entered as owners of land or a charge and one of them dies without the joint tenancy having been severed, an application in the prescribed manner shall be submitted by the survivor or survivors to remove from the register the name of the deceased joint tenant. R.S.O. 1960, c. 204, s. 130.

Removal of  
name of  
deceased  
joint tenant

**138.** The fact of a person having become entitled to land or a charge in consequence of the death of a registered owner shall be proved in the prescribed manner. R.S.O. 1960, c. 204, s. 131.

Evidence of  
transmission  
of registered  
ownership

**139.** Where land has been transferred to a person beneficially entitled thereto within three years after the death of the registered owner or has become vested in the person beneficially entitled thereto under *The Devolution of Estates Act*, the proper master of titles, upon application and the production of satisfactory evidence showing that all debts of the deceased registered owner have been paid and that creditors have been notified, may,

Entry of  
name of  
person  
beneficially  
entitled as  
owner  
without  
reference  
to debts  
R.S.O. 1970,  
c. 129



- (a) where the person beneficially entitled is shown on the register as owner of the land and the register shows that the land is subject to the unpaid debts of the deceased registered owner, delete the reference to the unpaid debts from the register; or
- (b) register the person beneficially entitled to the land without reference to the unpaid debts of the deceased registered owner. R.S.O. 1960, c. 204, s. 132; 1961-62, c. 70, s. 33.

Transfer of interest of deceased owner not to be entered without consent of Minister of Revenue  
R.S.O. 1970, c. 129

**140.**—(1) Notwithstanding anything in *The Devolution of Estates Act* or this Act, no executor, administrator, devisee, beneficiary, heir, nor any person interested in freehold or leasehold land or in a charge or interest therein, shall, by reason of the death of a registered owner, co-owner or joint owner of the land, charge or interest, be entered as owner unless the consent in writing of the Minister of Revenue is attached to or endorsed on the application for transmission of interest or application for entry and such entry shall be in respect of only the land, charge or interest mentioned in the application and, in the case of the death of the registered owner of a charge where no such entry is being applied for but a cessation of the charge is tendered for registration, such cessation shall not be registered until the above consent is attached thereto or endorsed thereon. R.S.O. 1960, c. 204, s. 133 (1), *amended*.

Saving

(2) Subsection 1 does not apply where the death of the registered owner occurred prior to the 1st day of January, 1930. R.S.O. 1960, c. 204, s. 133 (2).

Registration of consent under 1958, c. 29, s. 43, subs. 1 (Can.)

**141.**—(1) A person referred to in subsection 1 of section 140 shall not be entered as owner unless the consent under the *Estate Tax Act* (Canada) is attached to the application in the same manner as the consent of the Minister of Revenue.

Idem

(2) Subsection 1 applies only,

- (a) where the death of the registered owner occurred after the 31st day of December, 1958; and
- (b) where the application referred to in subsection 1 of section 140 is made on or after the 1st day of January, 1970. 1968-69, c. 57, s. 11, *amended*.

Application of devisees, etc., for registration

**142.**—(1) A person claiming to be entitled to freehold or leasehold land, or to an interest therein capable of being registered, or to a charge as devisee, heir, executor or administrator of a person who might have been registered under section 74, or a person claiming through or under such devisee, heir, executor or administrator, may apply to be registered as owner of such land, interest or charge, and, if no conflicting registration has been made, may be so registered subject to section 74 and this section.

(2) On registering the applicant, the proper master of titles shall, so far as practicable, enter on the register short particulars of every instrument or other title under which the right is conferred, as if such instrument had been duly presented for registration, or application for entry of transmission had been made in the proper order of time, and, as a preliminary step to the registration of the applicant, may enter an intermediate transferee, heir, executor or administrator as registered owner where that method is more convenient.

Mode of  
entry

(3) No application by a person claiming through or under a deceased person shall be allowed unless all the persons entitled to the whole of the estate of the deceased in the land are to be entered as owners. R.S.O. 1960, c. 204, s. 134.

All persons  
entitled  
must apply

#### CAUTION, ETC.

**143.**—(1) A person claiming to have an interest in registered land or in a registered charge of which he is not the registered owner may apply to the proper master of titles for the registration of a caution to the effect that no dealing with the land or charge be had on the part of the registered owner or other person named in the caution until notice has been served upon the cautioner in accordance with the rules. 1961-62, c. 70, s. 34.

Registration  
of caution

(2) A person interested under a lease or agreement for a lease of which notice has been entered on the register, or a person entitled to an estate in dower or by the curtesy of which notice has been entered on the register, is not entitled to register a caution in respect of the lease or agreement or estate in dower or by the curtesy.

When no  
caution

(3) A caution registered under this section ceases to have effect five years from the date of its registration unless renewed within that time.

Renewal  
and  
expiration

(4) Subsection 3 does not apply unless, at least thirty days before the caution ceases to have effect, the proper master of titles sends to the cautioner by registered mail a notice warning him that his caution will cease to have effect unless renewed.

Notice

(5) If a notice is not sent as required by subsection 4, the proper master of titles may at any later time send to the cautioner by registered mail a notice warning him that his caution will cease to have effect after the expiration of thirty days from the receipt of the notice unless renewed within that period and, if the caution is not renewed within that period, it ceases to have effect.

Idem

(6) When a caution ceases to have effect, the proper master of titles may delete the entry from the register. R.S.O. 1960, c. 204, s. 135 (2-6).

Deletion  
from  
register

Caution  
prevents  
dealing

**144.**—(1) After a caution has been registered, the proper master of titles shall not, without the consent of the cautioner, register any dealing with the land or charge against which the caution is registered.

Owner may  
apply for  
removal  
of caution

(2) Notwithstanding section 143, the registered owner of land or of a charge against which a caution has been registered may apply to the proper master of titles at any time for a notice to be served upon the cautioner warning him that his caution may cease to have effect after the expiration of the prescribed number of days next ensuing the date upon which the notice is served unless the cautioner appears before the proper master of titles at the time and place mentioned in the notice and satisfies him that the caution should not be deleted from the register.

Service  
of  
notice

(3) Upon receipt by him of an application under subsection 2, the proper master of titles shall serve a notice in the prescribed form upon the cautioner.

Where  
cautioner  
does not  
appear

(4) If the cautioner fails to appear before the proper master of titles at the time and place mentioned in the notice served under subsection 3, the proper master of titles may delete the entry of the caution from the register, and thereupon the caution ceases to have effect and the land or charge may be dealt with as if no caution had been registered. R.S.O. 1960, c. 204, s. 136 (1-4).

Where  
cautioner  
appears

(5) If the cautioner appears before the proper master of titles at the time and place mentioned in the notice served under subsection 3 but fails to satisfy the proper master of titles that the caution should continue, the proper master of titles may order that the entry of the caution be deleted from the register after the expiry of the prescribed number of days during which notice of an appeal may be served, and, if a copy of a notice of appeal is not served upon the proper master of titles within the prescribed number of days, the proper master of titles may delete the entry of the caution from the register, and thereupon the caution ceases to have effect and the land or charge mentioned in the caution may be dealt with as if no caution had been registered. 1961-62, c. 70, s. 35.

When  
notice to  
cautioner  
not required

(6) A notice to a cautioner is not required where the dealing proposed to be registered is under the authority of a judgment or order of the court in a suit or proceeding to which the cautioner is a party or where such dealing is under a power of sale contained in a charge or mortgage that is prior to the title under which the cautioner claims and the cautioner has been served with a notice of the proposed exercise of the power of sale and the caution is not in respect of the exercise of the power of sale or where the dealing is of such a nature that it cannot detrimentally affect the interest of the cautioner as claimed in the affidavit filed with his caution or where the transferee, chargee or other person desiring the registration of the dealing is willing that the same should be registered



subject to the continuance of the caution and the proper master of titles thinks fit so to register it, and, where a caution is continued, such continuance prevents further registrations of dealings by the registered owner until after notice to the cautioner, unless as in this section provided.

(7) Where a caution affects part only of the land dealt with by the transfer, charge or other instrument, the proper master of titles may, upon the application in writing of the person desiring registration or his solicitor, register the dealing as to the land not affected by the caution, and may subsequently, after notice to the cautioner or with his consent, register the dealing as to the remainder of the land dealt with by the instrument or any part thereof, and the certificate of registration on the instrument shall show that the registration made in the first instance covers only part of the land embraced in it. Caution against part

(8) The proper master of titles, upon receiving the consent of the cautioner to the registration of a dealing, may discharge the caution, unless the consent provides for its continuance, or he may discharge the caution as to the land or charge to which the dealing applies, but he shall not do so where from the nature of the dealing he is of opinion that the continuance of the caution is contemplated. R.S.O. 1960, c. 204, s. 136 (5-7). Power of master

**145.**—(1) Where the registered owner of freehold or leasehold land has executed a transfer or a charge thereof but claims that on account of special circumstances shown by affidavit the transferee or chargee should not be registered without notice to the registered owner, the proper master of titles may permit the registration of a caution by the registered owner. Caution by registered owner

(2) The registration of the caution stays the registration of the transfer or charge until notice has been served on the cautioner in accordance with section 144. R.S.O. 1960, c. 204, s. 137. Effect

**146.** If before the expiration of the prescribed period the cautioner or some person on his behalf appears before the proper master of titles and, within such period or such additional period as the proper master of titles allows, gives sufficient security to indemnify every person against any damage that may be sustained by reason of any dealing with the land or charge being delayed, the proper master of titles may delay registering any dealing with the land or charge for such further period as he considers just or may, instead of taking the security, register such dealing subject to the caution on any condition that he thinks fit to impose as to security or otherwise or may make such other order as he considers just. R.S.O. 1960, c. 204, s. 138. When security may be taken

**147.** A second caution by the same cautioner or by any other person in respect of the same matter shall not be registered or Second caution



have any effect except with the permission of the proper master of titles, which may be given either upon terms or without terms as he considers proper. R.S.O. 1960, c. 204, s. 139.

Cautions to be supported by affidavit

**148.** Every caution shall be supported by an affidavit in the prescribed form, stating the nature of the interest of the cautioner, the land to be affected by the caution and such other matters as are prescribed. R.S.O. 1960, c. 204, s. 140.

Liability where caution improperly registered

**149.** A person who registers a caution without reasonable cause is liable to make to any person who may sustain damage by its registration such compensation as is just, and the compensation shall be deemed to be a debt due from the person who has registered the caution to the person who has sustained damage. R.S.O. 1960, c. 204, s. 141.

Limit of effect of caution

**150.** A caution does not prejudice the claim or title of any person and has no effect except as in this Act provided. R.S.O. 1960, c. 204, s. 142.

Cautions based upon *lis pendens*

**151.**—(1) A certificate of *lis pendens* affecting land shall not be registered, but any party to an action, his solicitor or any person claiming to be interested in the action may register a caution subject to the same conditions as in other cases. R.S.O. 1960, c. 204, s. 143.

Agreement of purchase may be protected by caution

(2) An agreement of purchase and sale or an assignment thereof shall not be registered, but a person claiming an interest in registered land under such an agreement may register a caution subject to the same conditions as in other cases. 1961-62, c. 70, s. 36.

Sale of standing timber

**152.**—(1) Where timber standing upon registered land is sold under an agreement in writing, the purchaser, instead of registering a caution, may deposit the agreement with the proper master of titles, and the proper master of titles, upon proof of the due execution thereof by the owner, shall register it as an encumbrance on the land by entering a note on the register referring to the instrument and giving shortly its effect.

Address for service

(2) When registering the agreement, the purchaser shall by memorandum endorsed thereon or annexed thereto give his address for service.

Discharge by consent

(3) The registration of such an agreement may be vacated upon the consent in writing of the purchaser verified by an affidavit of execution.

Discharge by master

(4) The registration of such an agreement may also be vacated if the purchaser fails, for the period of one month from the date of the mailing of the notice provided for in subsection 5, to satisfy the proper master of titles that he still has rights under the agreement.

(5) Upon proof to his satisfaction that the rights of the purchaser are at an end, the proper master of titles shall send a notice by registered mail addressed to the purchaser at his address for service, warning him that his agreement will cease to have effect after the expiration of one month from the mailing of the notice unless good cause for its continuance is shown.

Notice

(6) At any time after ten years from the expiry date of an agreement or renewal thereof of which notice has been registered under this section, the proper master of titles may, upon application and without notice to the purchaser, delete from the register the entry of the notice of agreement or of the renewal. R.S.O. 1960, c. 204, s. 144.

Removal of entry of timber agreement from register ten years after expiry

EXECUTIONS

**153.**—(1) The sheriff or other officer to whom an execution or other writ, or renewal thereof, affecting registered land is directed, forthwith after its delivery to him, upon written request of the party by whom it was sued out or renewed, or of his solicitor, but not otherwise, shall deliver or transmit by registered mail to the proper master of titles a copy of the writ or renewal certified under his hand, and no registered land is bound by any such writ until such copy has been received by the proper master of titles and, after the receipt by him of the copy, no transfer or charge by the execution debtor is effectual, except subject to the rights of the execution creditor under the writ.

Notice of executions

(2) The proper master of titles shall keep an index or a book in the prescribed form in which shall be entered a record of all writs and renewals, copies of which are received by him from the sheriff or other officer.

Record of same

(3) No sale or transfer under any such writ is valid as against a person purchasing for valuable consideration before such entry is made, notwithstanding that the purchaser may have had notice of the writ.

Transfer before entry void as against purchaser

(4) Upon production to the proper master of titles of sufficient evidence of the satisfaction of such a writ, he shall cause an entry to be made in the index or book to that effect, and, on such entry, the writ shall be deemed to be satisfied.

Entry of satisfaction of writ

(5) Every writ and renewal of a writ shall be presumed to have been spent and the delivery or transmission of a copy thereof ceases to have effect at the expiration of the writ or renewal as appearing on the copy transmitted, but, if there has been a sufficient commencement of the execution to enable it to be completed by the sale and conveyance of the land under the writ and the writ has not been completely executed, the sheriff or officer shall, or the execution creditor may, at any time within one month before the expiration of the writ or renewal as so appearing, file with the proper master of titles a certificate of the sheriff

When writ to be presumed to be spent

or officer stating that fact, and such certificate shall be noted at the entry of the writ in the index or book, and the writ continues in force for a further period of one year from the filing of the certificate when it ceases to have effect unless another similar certificate is filed that operates in like manner.

Notice  
where writ  
against  
owner under  
different  
name from  
that on the  
register

(6) Where an execution or other writ is issued against the registered owner under a different name from that under which he is registered, the writ has no effect under this Act unless the person who sues out the writ, or his solicitor, gives a notice to the proper master of titles stating the name under which the execution debtor is registered and otherwise in the form or to the effect prescribed or unless a like notice is written upon the copy of the writ.

Where writ  
not binding

(7) Where land is being transferred or charged and where a notice under subsection 6 has not been given, a writ of execution or renewal thereof does not bind the land being transferred or charged as against the transferee or chargee if the proper master of titles decides that the name of the execution debtor appearing in the writ or renewal thereof and the name of the registered owner as it appears in the records of the land titles office do not represent the same person, and he issues a certificate accordingly. R.S.O. 1960, c. 204, s. 145 (1-7).

Fee

(8) Where a copy of a writ of execution or a renewal thereof is delivered or transmitted to the proper master of titles under subsection 1, the sheriff shall be paid by the person upon whose request the copy is delivered or transmitted a fee of \$3 in addition to any other fee payable to the sheriff on the filing of the writ. 1961-62, c. 70, s. 37, *part*; 1968-69, c. 57, s. 12.

No fee under  
R.S.O. 1970,  
c. 152, s. 12

(9) No additional fee is payable to the sheriff or to the proper master of titles in respect of a certificate under section 12 of *The Execution Act*.

Liens for  
bail  
R.S.O. 1970,  
c. 37

(10) Notwithstanding subsection 2 of section 3 of *The Bail Act*, copies of certificates of liens under that Act may be recorded in the same index or book in which writs are recorded under subsection 2 of this section. 1961-62, c. 70, s. 37, *part*.

Procedure  
when  
claimed  
writ not  
binding

**154.** Where a person applies for registration of an instrument and claims that a writ apparently affecting land does not affect the land or a charge thereon, he shall produce such evidence thereof as the proper master of titles considers necessary, and the proper master of titles may require all parties interested to be notified of the application and may himself decide the question or may direct an issue to be tried or a case to be stated and may make such order as to costs as he considers just. R.S.O. 1960, c. 204, s. 146.



**155.**—(1) The seizure under execution or other process of a mortgage or charge or of leasehold land registered under this Act does not take effect until a certificate of the sheriff or other officer that he has taken the mortgage, charge or leasehold land under such process against the registered owner thereof is lodged with the proper master of titles.

Seizure  
ineffectual  
until  
certificate  
by sheriff

(2) The certificate shall state the number of the parcel under which the land affected is registered and the name of the owner and shall be entered by the proper master of titles in the register.

Contents  
of  
certificate

(3) This section does not apply where the proceedings prescribed by section 21 of *The Execution Act* have been taken with respect to a mortgage or charge. R.S.O. 1960, c. 204, s. 147.

Application  
of section  
R.S.O. 1970,  
c. 152

**156.**—(1) Where registered freehold or leasehold land is sold under execution or other process, the proper master of titles, upon receiving the transfer from the sheriff or other officer with proof of due execution, shall cause a notice to be given to the person whose interest has been sold.

Notice of  
sale of  
registered  
land by  
sheriff

(2) If no claim is made against the land within fourteen days from the giving of the notice, the proper master of titles shall register the purchaser as owner.

When  
purchaser  
registered  
as owner

(3) If a claim is made against the land within fourteen days from the giving of the notice, the proper master of titles shall hear and determine the claim. R.S.O. 1960, c. 204, s. 148.

Master  
determines  
claims

#### SALE FOR TAXES

**157.**—(1) Where land is sold for taxes, the purchaser may at any time after the sale register a caution against the transfer of the land, and, upon the completion of the time allowed by law for redemption and upon the production of the transfer of the land with proof of the due execution thereof by the proper officer, the proper master of titles shall cause a notice to be sent by registered mail to the proper post office address of the persons who appear upon the register to be interested in the land or served upon them or any of them personally or substitutionally by advertisement or otherwise as the proper master of titles directs, and, after the expiration of three months from the mailing or service of the notice, shall, if no other person has become entitled by priority of registration, register the purchaser at the sale as owner of the land, with an absolute title, and shall, if required, issue to him a certificate of ownership in the prescribed form unless the registration is in the meantime stayed by order of the court, and, in that case, the registration shall not be made nor shall the certificate be issued except in accordance with the order and direction of the court.

Tax pur-  
chasers,  
registration  
of caution  
and subse-  
quent entry  
as owner



Notice to  
persons  
interested

(2) If any person appearing upon the register to be interested in the land acquired such interest after the tax sale, the notice to be given to him shall require him, if he objects to the registration of the tax purchaser as owner or if, having a charge only, he claims priority for such charge, to file his objection or claim verified by affidavit with the proper master of titles before the expiration of one month from the mailing or other service of the notice, and the proper master of titles shall hear and determine the objection or claim upon notice to the parties interested and registration shall be made in accordance with the final determination of the matter by the proper master of titles or on appeal from him.

Forfeiture  
of priority  
of tax  
purchaser

(3) Where a tax purchaser fails to register a caution or to present his deed for registration prior to the registration of the title of a purchaser or chargee, claiming from or through the person who was the registered owner at the time of the tax sale, for valuable consideration and without actual notice of the tax sale, he loses his priority.

Mechanic's  
lien

(4) Where it is made to appear to the proper master of titles that the purchaser has so dealt with the land that a mechanic's lien has, or probably has, attached thereto subsequent to the sale and a claim of lien has been registered against the land, the proper master of titles may register the purchaser's title subject to the claim of lien. R.S.O. 1960, c. 204, s. 149.

#### TRUSTEE ACT, APPLICABILITY

How far  
R.S.O. 1970,  
c. 470,  
to apply

**158.** All the provisions of *The Trustee Act* that are not inconsistent with the provisions of this Act apply to land and charges registered under this Act, but this enactment does not prejudice the applicability to such land and charges of any provisions of that Act relating to land or choses in action. R.S.O. 1960, c. 204, s. 150.

### PART VIII

#### DESCRIPTIONS OF LAND AND REGISTERED PLANS

How land  
to be  
described

**159.**—(1) Registered land shall be described in such manner as the proper master of titles considers is best calculated to secure accuracy.

Description  
not conclu-  
sive

(2) The description of registered land is not conclusive as to the boundaries or extent of the land. R.S.O. 1960, c. 204, s. 151.

Alteration  
of registered  
description  
of land

**160.** No alteration shall be made in the registered description of land, except under an order of the court or under subsection 10 of section 161 or under section 177 or by way of explanation, but this section does not extend to registered dealings with registered land in separate parcels, although the land was originally registered as one parcel. R.S.O. 1960, c. 204, s. 152; 1961-62, c. 70, s. 38.

**161.**—(1) Every plan submitted for registration or for deposit shall be prepared in accordance with the regulations. Plans to conform to regulations

(2) Where land is being subdivided for the purpose of being sold or conveyed in lots, the person making the subdivision shall register in the proper land titles office a plan of the land prepared by an Ontario land surveyor and certified by him in the prescribed form. Subdivision plans to be registered

(3) The person by whom or on whose behalf a plan is registered shall sign the plan, but no seal shall be affixed thereto. Signature to be affixed to plan

(4) A duplicate plan and a mounted duplicate plan shall be deposited at the time of the registration of the plan. Duplicate, etc.

(5) Upon the registration of a plan, the proper master of titles shall endorse on the duplicate plan and on the mounted duplicate plan a certificate showing the number of the plan and the date of its registration, and he shall deliver without fee the duplicate plan to the clerk of the local municipality in which the land is situate. Duplicate plan to be delivered to municipality

(6) Upon the registration of a plan, the mounted duplicate plan thereof has all the force and effect of the plan. Mounted duplicate same as plan

(7) The proper master of titles, before accepting a plan for registration, may require evidence to be given him explaining any seeming discrepancy between the measurements on the plan and the description of the land in the register, or he may require evidence to be given him respecting any other matter of which he requires explanation. R.S.O. 1960, c. 204, s. 153 (1-7). Additional information

(8) Before a plan, other than a plan of public lands prepared under *The Public Lands Act* or as otherwise excluded by the regulations, is registered or deposited in a land titles office, the director of titles may require a survey thereof to be verified on the ground by the examiner of surveys or by such other person as is designated by the director of titles. Verification of survey  
R.S.O. 1970, c. 380

(9) The director of titles may direct that a true copy of a plan or a part of a plan registered or deposited in a land titles office be made under the direction of the examiner of surveys, who shall certify thereon that it is a true copy of the plan or of a part of a plan, as the case may be, and the copy so made and certified has all the force and effect of the plan or of that part of the plan of which it is a copy. True copy of plan

(10) Upon the filing of evidence satisfactory to the proper master of titles and upon his giving such notice to interested persons as he considers appropriate, he may correct any erroneous measurements upon, or any error, defect or omission in, any plan registered or deposited and he shall substitute the corrected plan for the original plan and thereafter the plan shall be deemed for all purposes to have been so corrected from the time of its registration or deposit, as the case may be. R.S.O. 1960, c. 204, s. 153 (9-11). Correction of plans

Subdivision  
plan areas,  
designation

**162.**—(1) Where part of a parcel has been transferred by metes and bounds or as a part of a lot or block and the description of that part is, in the opinion of the director of titles, inadequate or inaccurate with respect to the common boundaries of that part and the adjacent parcels, he may issue a direction designating that parcel and any adjacent parcels as a subdivision plan area and, after the entry of the direction in the registers for the parcels affected, no transfer of any land in any of those parcels shall be registered without the consent in writing of the director of titles or his deputy until a plan of subdivision of the subdivision plan area has been registered.

Withdrawal

(2) Where a plan of subdivision of a subdivision plan area has been registered, the director of titles shall withdraw the direction issued in respect of that subdivision plan area and thereupon the registers for the parcels affected shall be amended accordingly.

Draft plan  
of  
subdivision

(3) Upon a direction being issued and entered under subsection 1, the director of titles, on behalf of the Minister of Justice and Attorney General, shall apply *ex parte* to a judge of the county or district court of the county or district in which the subdivision plan area is situate for an order that a draft plan of subdivision of the subdivision plan area be prepared by an Ontario land surveyor from an actual survey and having regard to the records in the land titles office, and the judge may make such order.

Order for  
registration  
of judge's  
plan

(4) Where a draft plan of subdivision has been prepared pursuant to an order made under subsection 3, the director of titles may, upon notice to all persons interested, apply to a judge of the county or district court of the county or district in which the subdivision plan area is situate for an order that a plan of subdivision be prepared and registered in accordance with the regulations and incorporating such amendments to the draft plan of subdivision as the judge thinks proper, and the judge may make such order.

Idem

(5) The judge, having regard to the nature of the case and the inadequacy of or errors contained in previous surveys of land in the subdivision plan area and to the general law relating to surveys of land, may in his order effect such alterations to the registered descriptions of the land as to him seem just and equitable, and the Assurance Fund is not thereby rendered liable.

Appeal

(6) An order made under this section may be appealed to the Court of Appeal.

Examina-  
tion of  
Ontario land  
surveyor

(7) No order shall be made under subsection 4 unless the Ontario land surveyor who prepared the draft plan of subdivision is available for examination and cross-examination at the hearing.

Costs and  
expenses

(8) The costs and expenses of and incidental to the application and the preparation and registration of the plan of subdivision



shall in the discretion of the judge be borne in whole or in part by the Crown or such person or municipality as is named by the judge in the order made under subsection 4 and, where the costs and expenses are ordered to be borne by a municipality, the judge may by his order direct repayment of them to the municipality by levy of a special rate by assessment on all the lots or blocks included in the plan.

(9) Upon the registration of a plan of subdivision under this section, the boundaries of the lots or blocks shown thereon shall be deemed to be the true boundaries of the lots or blocks.

Effect of  
registration  
of plan

(10) Where the judge orders the costs of and incidental to an application under this section to be borne in whole or in part by a registered owner of land in the subdivision plan area, the amount so ordered to be paid constitutes a charge upon the land of the registered owner in favour of Her Majesty the Queen in right of Ontario represented by the director of titles, and, until paid, such charge ranks in priority to all registered charges on the land from and after the entry of the particulars of the charge in the register. R.S.O. 1960, c. 204, s. 154, *amended*.

Lien for  
costs

**163.** Section 86 of *The Registry Act* applies *mutatis mutandis* to land registered under this Act. 1961-62, c. 70, s. 39, *part*.

Application  
of  
R.S.O. 1970,  
c. 409, s. 86

**164.**—(1) Where land has been or is granted by the Crown under *The Public Lands Act* and a plan of subdivision of the land has not been registered, an application on behalf of the Minister of Lands and Forests may be made to the proper master of titles to register a composite plan showing the land, and the boundaries of the lots or blocks shown thereon shall be deemed to be the true boundaries of the lots or blocks.

Composite  
plan  
R.S.O. 1970,  
c. 380

(2) Every composite plan shall conform as nearly as may be to a plan of subdivision under section 161 except that it shall be signed by the Surveyor General or his deputy on behalf of all persons having an interest in the land shown thereon. R.S.O. 1960, c. 204, s. 155.

Idem

(3) A subsequent severance from land shown on a plan registered under subsection 1 may be delineated upon a duplicate of the plan so deposited, and the plan so prepared shall be certified by an Ontario land surveyor. 1961-62, c. 70, s. 40.

Subsequent  
severance

**165.** A master of titles may prepare an Index Plan to illustrate and redesignate separately described parcels of land and the Index Plan may be registered with the approval of the director of titles and the parcels shall thereafter be described in accordance with the Index Plan. 1970, c. 35, s. 10.

Index  
Plan



Survey of township subsequent to grant from Crown

R.S.O. 1970, c. 453

**166.**—(1) Where land in an unsurveyed township in a provisional judicial district has been or is granted by the Crown and the land is subsequently surveyed and laid out into lots and concessions in whole or in part, the survey shall be made in accordance with the provisions of *The Surveys Act* as made applicable by the terms of the patent or order in council granting the land, and the plan of survey shall be registered in the proper office of land titles.

Requirements as to plans

(2) Such plan shall be prepared as nearly as may be in accordance with section 161. R.S.O. 1960, c. 204, s. 156.

Reference plan required in certain cases

**167.**—(1) A transfer or charge of freehold or leasehold land shall not be registered unless a plan of survey of the land certified by an Ontario land surveyor, to be known as a reference plan of survey, has been deposited for record in the proper office of land titles.

Saving

- (2) Subsection 1 does not apply to a transfer or charge,
- (a) of the whole of a registered parcel of land according to the parcel register;
  - (b) of the whole of a lot, block, street, lane, reserve or common according to a registered plan of subdivision or composite plan; or
  - (c) of the whole of a part according to a previously recorded reference plan of survey.

Idem

(3) The proper master of titles, having regard to the circumstances, may order that subsection 1 does not apply in the case of a transfer or charge mentioned in the order.

Withdrawal of plan

(4) A plan recorded under this section may be withdrawn by the owner or owners of all the land shown on the plan unless a transfer or charge has been registered in accordance with the plan. 1961-62, c. 70, s. 41.

Boundaries

(5) New boundaries that are created by a severance shown on a reference plan and referred to or incorporated by reference in a registered instrument signed by the registered owner of the land shall be deemed to be true and unalterable boundaries and to be defined by the monuments shown thereon, but such monuments do not change or alter the position of any previously established boundary or prejudice prior registered rights or interests. R.S.O. 1960, c. 204, s. 157 (5).

Plan of street, road, lane, or common

**168.** Where a plan of subdivision lays out a part of the land as a street, road, lane or common, it shall not be registered except on the application of the owner of the land subdivided with the consent in writing of all persons who are registered as mortgagees or chargees thereof. R.S.O. 1960, c. 204, s. 158.

**169.**—(1) Where a street, road or lane laid out on a plan registered in a land titles office has become a public highway and has thereby become vested in a municipal corporation, the municipal corporation may apply to the proper master of titles to be entered as the owner thereof.

Entry on register of municipal corporation as owner of streets laid out on plan

(2) Where a highway or part of it has been closed by the action of a municipal council and the highway or part of it has been transferred by the municipal corporation without the municipal corporation having been entered as owner of it, the transferee may apply to be entered as owner of the highway or part of it transferred to him and, upon due proof of the facts, the proper master of titles may enter such transferee as owner. R.S.O. 1960, c. 204, s. 159.

Entry as owner of transferee from a municipal corporation of closed-up highway

**170.** Where a plan has been registered or recorded under this Act, every instrument affecting the land shown on the plan shall conform and refer thereto, otherwise it shall not be registered unless the proper master of titles under special circumstances considers it proper to register it. R.S.O. 1960, c. 204, s. 160.

Instruments must conform to plan

**171.**—(1) No plan of survey or subdivision to which *The Planning Act* applies shall be registered unless approved under that Act. R.S.O. 1960, c. 204, s. 161 (1).

Where R.S.O. 1970, c. 349 applies

(2) Plans of subdivision registered under section 162 and composite plans registered under section 164 are not subject to the provisions of *The Planning Act*. R.S.O. 1960, c. 204, s. 161 (2); 1961-62, c. 70, s. 42.

Where R.S.O. 1970, c. 349 does not apply

**172.**—(1) No registered plan is binding on the person who registered it or upon any other person, unless a transfer or charge in which the land is described in accordance with the plan has been registered. 1961-62, c. 70, s. 43, *part*.

When registered plan not binding

(2) No part of a road, street, lane or alley upon which a lot abuts or that connects a lot with or affords access therefrom to the nearest public highway shall be altered or closed up without the consent of the owner of the lot, but nothing in this section interferes with the powers of municipal corporations with reference to highways.

No alteration or closing of street, etc., without consent of owner

(3) Nothing in this section prevents the registration of a plan of resubdivision if, where a public highway is affected by the resubdivision, the proper officers of the authority having jurisdiction and control over the highway consent to the plan. R.S.O. 1960, c. 204, s. 162 (4, 5).

Plans of resubdivision may be registered

Transfer of  
plans from  
registry  
offices

**173.** Where all the lots on a plan of subdivision registered in a registry office are registered under this Act, the proper master of titles may require the registrar of deeds to deliver the plan to him to be registered in his office and the registrar of deeds shall thereupon deliver it, taking a receipt therefor. R.S.O. 1960, c. 204, s. 163.

## PART IX

### FRAUD

Fraudulent  
dispositions

**174.** Subject to the provisions of this Act, with respect to registered dispositions for valuable consideration, any disposition of land or of a charge on land that, if unregistered, would be fraudulent and void is, notwithstanding registration, fraudulent and void in like manner. R.S.O. 1960, c. 204, s. 164.

Certain  
fraudulent  
acts  
declared  
to be  
offences

**175.** Every person who fraudulently procures, attempts to fraudulently procure or is privy to the fraudulent procurement of an entry on the register or of an erasure from the register or alteration of the register is guilty of an offence under this Act and on summary conviction is liable to imprisonment for a term of not more than two years, with or without hard labour, or to be fined such sum not exceeding \$1,000 as the court before which he is tried adjudges, and the entry, erasure or alteration is void as between all parties or privies to the fraud. R.S.O. 1960, c. 204, s. 165.

Cancellation  
of fraudulent  
entries

**176.**—(1) Upon the conviction under this Act or under the criminal law of Canada of a person for an offence whereby he fraudulently procured an entry on the register by reason of which any person other than the rightful owner has become the registered owner of land, or by reason of which land under this Act has been wrongfully encumbered, the proper master of titles, on the application of the rightful owner, may cancel the wrongful entry and may enter the rightful owner as the registered owner of the land.

Where land  
has been  
transferred  
to innocent  
holder

(2) If while the wrongful entry was subsisting on the register an innocent person has been registered as the owner of a charge upon or an estate, right or interest in the land, the proper master of titles, instead of cancelling the wrongful entry, may make an entry on the register stating the fact of the conviction and revesting the land in the rightful owner subject to the charge, estate, right or interest, and the land thereupon vests in the person named in the last-mentioned entry in accordance with its terms.

Application  
of section

(3) This section applies to past as well as future cases. R.S.O. 1960, c. 204, s. 166.



# PART X

## RECTIFICATION OF THE REGISTER

**177.**—(1) The proper master of titles may of his own accord and without affidavit enter a caution to prevent the dealing with registered land if it appears to him that an error has been made in an entry by misdescription of the land or otherwise.

Entry of caution by master in case of error

(2) Subject to the regulations, the proper master of titles, before the receipt of any conflicting instruments or after notifying all persons interested, upon such evidence as appears to him sufficient, may correct errors and supply omissions in certificates of ownership or of charge, or in the register, or in an entry therein, and may call in any outstanding certificate for that purpose. R.S.O. 1960, c. 204, s. 167 (1, 2).

Correction of errors

(3) Where the proper master of titles restores to the register any covenant or condition, he may do so with such modifications as he considers advisable so as to do the least possible injury to any person affected by its omission or restoration, and, upon notice to the Minister of Justice and Attorney General, at the same time or subsequently, may determine what damages, if any, shall be paid to any person claiming to have been injuriously affected by the omission or restoration of the covenant or condition. R.S.O. 1960, c. 204, s. 167 (3), *amended*.

Restoration of covenants or conditions and compensation therefor

**178.** Subject to any estates or rights acquired by registration under this Act, where a court of competent jurisdiction has decided that a person is entitled to an estate, right or interest in or to registered land or a charge and as a consequence of the decision the court is of opinion that a rectification of the register is required, the court may make an order directing the register to be rectified in such manner as is considered just. R.S.O. 1960, c. 204, s. 168.

Court may order rectification

**179.** Subject to any estates or rights acquired by registration under this Act, if a person is aggrieved by an entry made, or by the omission of an entry from the register, or if default is made or unnecessary delay takes place in making an entry in the register, the person aggrieved by the entry, omission, default or delay may apply to the court for an order that the register be rectified, and the court may either refuse the application with or without costs to be paid by the applicant or may, if satisfied of the justice of the case, make an order for the rectification of the register. R.S.O. 1960, c. 204, s. 169.

Application to court to rectify

**180.** Where land has been registered under this Act and the Minister of Lands and Forests under *The Public Lands Act* directs an incorrect patent to be cancelled and a correct patent to be issued in its stead, the proper master of titles, upon receipt of the correct patent, if no conflicting instrument has been received,

Correction of errors in patents after registration  
R.S.O. 1970, c. 380



shall amend the entry on the register to accord with the correct patent or, where a conflicting instrument has been received, the proper master of titles, after notifying all persons interested, may make such amendment. R.S.O. 1960, c. 204, s. 170.

Deletion  
from register  
of  
reservation  
of trees in  
letters  
patent

**181.**—(1) Upon receiving a certificate of the Minister of Lands and Forests or the Deputy Minister of Lands and Forests that a reservation of any class or kind of tree in letters patent to registered land is void by statute, the proper master of titles shall delete the reservation from the register without application therefor.

Deletion  
from register  
of  
reservation  
of mines and  
minerals in  
letters  
patent

(2) Upon receiving a certificate of the Minister of Mines and Northern Affairs or the Deputy Minister of Mines and Northern Affairs that a reservation of mines and minerals in letters patent to registered land issued before the 6th day of May, 1913, is void by statute, the proper master of titles shall delete the reservation from the register without application therefor.

Deletion  
from register  
of other  
reservations  
in letters  
patent

(3) Upon receiving a certificate of the Minister of Lands and Forests or the Deputy Minister of Lands and Forests that a condition, proviso or reservation in letters patent to registered land, other than a reservation of any class or kind of tree or of mines and minerals, is void by statute, the proper master of titles shall delete the condition, proviso or reservation from the register without application therefor.

Transfer,  
charge, etc.,  
of mines and  
minerals  
reserved

(4) Where an owner or former owner has attempted to transfer, charge or otherwise convey any mines or minerals reserved in letters patent to registered land issued before the 6th day of May, 1913, upon receiving a certificate of the Minister of Mines and Northern Affairs or Deputy Minister of Mines and Northern Affairs that the reservation in the letters patent is void by statute, the proper master of titles shall make all proper entries to define the interests of those appearing to be entitled to the mines or minerals.

Claims  
against  
Assurance  
Fund

(5) No claim shall be sustained against the Assurance Fund respecting any right arising from any conveyance of mines or minerals reserved in letters patent issued before the 6th day of May, 1913. R.S.O. 1960, c. 204, s. 171.

## PART XI

### REGULATIONS AND PROCEDURE

Power to  
make  
rules

**182.** The Lieutenant Governor in Council may make regulations in respect of,

- (a) the mode in which the register is to be made and kept;
- (b) a code of standards and procedure for surveys and plans of registered land;

- (c) the mode in which a companies register, a power of attorney register, the Department of Highways register or any other special register is to be made and kept;
- (d) the forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all proceedings or in connection with the registration, and in particular with respect to the reference to counsel of any title to land proposed to be registered with an absolute title;
- (e) the custody of any instruments coming into an office of land titles, with power to direct the destruction of any of them where they have become altogether superseded by entries on the register or have ceased to have any effect;
- (f) the duties that are to be performed by the director of titles, the masters of titles and other officers, and the duties of the director of titles and of the masters of titles that may be performed by other officers;
- (g) the costs to be charged by solicitors in or incidental to or consequential on the registration of land, or any other matter required to be done for the purpose of carrying out this Act, with power to require such costs to be payable by commission, percentage or otherwise, and to bear a certain proportion to the value of the land registered, or to be determined on such other principle as is expedient;
- (h) the fees to be paid under this Act, and regard may be had,
  - (i) in the case of the registration of land or of any transfer of land on the occasion of a sale, to the value of the land as determined by the amount of purchase money, or to the value of it to be ascertained in such manner as is prescribed,
  - (ii) in the case of registration of a charge or of a transfer of a charge, to the amount of the charge;
- (i) the taxation of costs and the persons by whom the costs are to be paid;
- (j) any matter by this Act directed or authorized to be prescribed;
- (k) any other matter or thing, whether similar or not to those above mentioned, in respect of which it is considered expedient to make rules for the purpose of carrying out this Act. R.S.O. 1960, c. 204, s. 172; 1961-62, c. 70 s. 44 (1); 1966, c. 77, s. 24; 1970, c. 35, s. 13.

**183.** The provisions of this Act respecting the procedures and records in land titles offices are subject to any regulation made under section 103 of *The Registry Act*. 1968-69, c. 57, s. 16.

Integration  
of land titles  
and registry  
records and  
procedures  
R.S.O. 1970,  
c. 409

Custody of  
registered  
documents

**184.**—(1) Every instrument received and accepted for registration under this Act by the proper master of titles shall be retained in the custody of the proper master of titles in his office. 1961-62, c. 77, s. 45, *part*.

Production  
of instru-  
ments, etc.,  
copies

(2) Upon receipt of a request in writing and the prescribed fees, the proper master of titles,

- (a) shall produce for inspection in his office during office hours any instrument registered in his office or any book of the office relating to such instrument; and
- (b) shall supply a copy of the whole or a part of any instrument registered in his office and, when so requested, shall certify the copy under his hand and seal of office. 1966, c. 77, s. 26.

Destruction  
of certain  
instruments

(3) Notwithstanding subsection 1, an instrument may be destroyed by or under the authority of the proper master of titles,

- (a) when it has been superseded by entries in the register; or
- (b) when it has been completely recorded photographically and the photographic reproduction is retained and made available for inspection under this section. 1961-62, c. 70, s. 45, *part*.

Addresses  
to be  
furnished

**185.**—(1) Every person whose name is entered on the register as owner of freehold or leasehold land or of a charge, or as a cautioner, or as entitled to receive a notice, or in any other character, shall furnish a place of address in Ontario and may from time to time substitute some other place of address in Ontario for that originally furnished, and each instrument under this Act shall by endorsement thereon show the full name and place of residence, giving the street number, if any, of such person.

In case  
address not  
furnished

(2) If a person fails to furnish a place of address for service, a notice sent by mail addressed to that person at the place named in the registered instrument under which he claims as his place of residence is sufficient unless the proper master of titles otherwise directs.

Service of  
notices

(3) Every notice by this Act required to be given to a person shall be served personally or sent by registered mail directed to such person at the last address furnished, and unless returned shall be deemed to have been received by the person addressed within such period, not less than seven days exclusive of the day of mailing, as is prescribed. R.S.O. 1960, c. 204, s. 176 (1-3).

Return  
address

(4) The envelope containing a notice under this Act shall have printed thereon the return address of the office of land titles. 1968-69, c. 57, s. 17.

(5) On the return of an envelope containing a notice, the proper master of titles shall act in the matter requiring the notice to be given in the manner prescribed. R.S.O. 1960, c. 204, s. 176 (5).

Master  
to act on  
return of  
notice

**186.** No application, order, affidavit, certificate, registration or other proceeding is invalid by reason of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1960, c. 204, s. 178.

Proceedings  
not void  
for want  
of form

**187.—**(1) An applicant under this Act is liable *prima facie* to pay all costs, charges and expenses incurred by or in consequence of his application, except where parties whose rights are sufficiently secured without their appearance object or where any costs, charges or expenses are incurred unnecessarily or improperly.

Payment of  
costs

(2) The proper master of titles may order costs, either as between party and party or as between solicitor and client, to be paid by or to any person who is a party to a proceeding under this Act, and may give directions as to the fund out of which the costs shall be paid, regard being had to subsection 1.

Scale of  
costs

(3) Any person aggrieved by an order of the proper master of titles made under this section may appeal to the court, which may annul or, with or without modification, confirm the order.

Appeal from  
master's  
order

(4) If a person disobeys an order of the proper master of titles made under this section, the proper master of titles may certify the disobedience to the court, and thereupon, subject to the right of appeal, the order may be enforced in the like manner and by the like proceedings as if it were an order of the court.

Enforce-  
ment of  
order

(5) The amount of all costs, charges and expenses properly incurred by a trustee, mortgagee or other person having a power of selling land of and incidental to an application to be registered shall be ascertained and declared by the proper master of titles, and shall be deemed to be costs, charges and expenses properly incurred by that person in the execution of the trust or in pursuance of the power, and he may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he is not liable to an account in respect thereof. R.S.O. 1960, c. 204, s. 179.

Costs of  
application  
by trustee,  
etc.

**188.—**(1) Where after land has been registered special circumstances appear or subsequently arise that make it inexpedient that the land should continue under this Act, the owner may apply in the prescribed manner to the proper master of titles for the withdrawal of the land from the Act.

Application  
to withdraw  
registered  
land



Certificate  
by master

(2) If the owner proves before the proper master of titles that all persons interested in the land proposed to be withdrawn consent to its withdrawal and satisfies the proper master of titles that special circumstances exist that render the withdrawal of the land or a part thereof expedient, the proper master of titles may issue a certificate describing the land or such part thereof as the consent covers and as the proper master of titles considers proper in such a manner that the certificate can be properly registered in the registry office for the registry division in which the land is situate, and upon the certificate being issued this Act ceases to apply to the land described therein, and the land thereafter is subject to the ordinary laws relating to real estate and to *The Registry Act*.

R.S.O. 1970,  
c. 409

Certificate  
to be  
counter-  
signed by  
director

(3) The certificate of the proper master of titles under this section is not valid unless approved and countersigned by the director of titles.

Registration  
of certificate

(4) Upon the production of the certificate to the registrar of deeds and payment of a fee of \$1, the certificate shall be registered.

Application  
of section

(5) This section does not apply to land registered under section 35. R.S.O. 1960, c. 204, s. 180.

Certificates  
as to taxes  
R.S.O. 1970,  
c. 32

**189.** Upon payment of the fee prescribed by section 154 of *The Assessment Act*, the treasurer of the proper municipality shall furnish a certificate of payment of taxes, charges, rates and assessments to any person requiring one in respect of land registered or with reference to which an application for registration is pending, and the certificate is binding upon the corporation of the municipality. R.S.O. 1960, c. 204, s. 181.

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## CHAPTER 235

## The Land Transfer Tax Act

**1.** In this Act,Interpre-  
tation

- (a) “collector” means the registrar of deeds or proper master of titles, as the case may be, to whom an instrument to which this Act applies is tendered for registration;
- (b) “land” includes tenements, realty, fixtures and good will;
- (c) “Minister” means the Minister of Revenue;
- (d) “tax” means the tax imposed by this Act;
- (e) “Treasurer” means the Treasurer of Ontario. R.S.O. 1960, c. 205, s. 1, *amended*.

**2.**—(1) Every person who tenders for registration a conveyance, deed, transfer or other instrument or writing whereby any land is granted, assigned, conveyed or otherwise transferred shall pay a tax before the conveyance, deed, transfer, instrument or writing is registered, computed at the rate of one-fifth of 1 per cent upon the value of the consideration for the grant, assignment, conveyance or other transfer up to \$25,000, and two-fifths of 1 per cent upon the remainder. 1966, c. 78, s. 1.

Imposition  
of tax

(2) Where such an instrument may be registered in more than one registry office or land titles office, or in a registry office and a land titles office, the tax is payable once only in respect of any one transfer or conveyance, and is payable upon the first instrument registered in the transaction.

Tax to be  
payable on  
one regis-  
tration only

(3) No tax is payable by the Crown or by any foreign state. R.S.O. 1960, c. 205, s. 2 (2, 3).

Exception

**3.** Every collector shall in the first week of each month send to the Treasurer a statement of the amount of tax collected by him during the previous month and shall pay over the amount thereof to the Treasurer for the uses of Ontario. R.S.O. 1960, c. 205, s. 3.

Monthly  
returns

**4.**—(1) There shall be filed with the collector an affidavit setting out the true consideration for the transfer or conveyance, and the true amount in cash and the value of any property or security included in the consideration, and the amount or value of any lien or encumbrance subject to which the transfer or conveyance was made.

Affidavit

By whom to  
be made

(2) The affidavit may be made by the transferor or transferee or by any person acting for either of them under a power of attorney, or by an agent accredited in writing by the transferor or transferee, or by the solicitor for either of them, or by some other person approved by the Minister.

What to  
contain

(3) The affidavit shall state that the person making it has personal knowledge of the facts stated in it, and there shall be filed with it the power of attorney or the accredited agent's authority, if any, referred to in subsection 2.

Reference  
to  
Comptroller  
of Revenue

(4) If the collector is not satisfied that the affidavit sets out the true consideration for the transfer or conveyance, he may refuse to register the instrument to which the affidavit relates until the Minister has signified over his signature that he is satisfied that the consideration stated in the affidavit is the true consideration.

When  
vendor  
liable for  
tax

(5) Where the affidavit is made by the transferor or a person acting as attorney, agent or solicitor for the transferor, the transferor is personally liable to the Treasurer jointly and severally with the transferee for the amount of the tax.

Right of  
vendor to  
recover

(6) Where the transferor is compelled to pay the tax or a part thereof, he has the right to recover the amount so paid from the transferee in an action in any court of competent jurisdiction. R.S.O. 1960, c. 205, s. 4, *amended*.

Payment of  
tax under  
protest

**5.** Where the right of the collector to require payment of the tax is disputed by the person registering an instrument, the tax may be paid under protest and the collector shall give a receipt in writing signed by him for the amount paid and stating that it was paid under protest and he shall thereupon refer the matter for the decision of the Minister or such official as the Minister appoints, who may order the refund of the tax or any part thereof to the person who paid it. R.S.O. 1960, c. 205, s. 5, *amended*.

Administra-  
tion of oaths  
R.S.O. 1970,  
cc. 234, 409

**6.** A person authorized for a like purpose under *The Land Titles Act* or *The Registry Act* may administer an oath for any of the purposes of this Act. R.S.O. 1960, c. 205, s. 6.

Regulations

**7.** The Lieutenant Governor in Council may make regulations prescribing the form of affidavit referred to in section 4, and generally for the better carrying out of this Act. R.S.O. 1960, c. 205, s. 7.

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## CHAPTER 236

### The Landlord and Tenant Act

#### 1. In this Act,

Interpre-  
tation

- (a) “crops” means all sorts of grain, grass, hay, hops, fruits, pulse and other products of the soil;
- (b) “landlord” includes lessor, owner, the person giving or permitting the occupation of the premises in question, and his and their heirs and assigns and legal representatives, and in Parts II and III also includes the person entitled to possession of the premises;
- (c) “residential premises” means premises used for residential purposes, and does not include premises occupied for business purposes with living accommodation attached under a single lease;
- (d) “standing crops” means crops standing or growing on the demised premises;
- (e) “tenant” includes lessee, occupant, sub-tenant, under-tenant, and his and their assigns and legal representatives. R.S.O. 1960, c. 206, s. 1; 1968-69, c. 58, s. 1.

**2.** The provisions of Parts I, II and III of this Act in so far as they apply to tenancies of residential premises are subject to Part IV. 1968-69, c. 58, s. 2.

Application

#### PART I

**3.** The relation of landlord and tenant does not depend on tenure, and a reversion in the lessor is not necessary in order to create the relation of landlord and tenant, or to make applicable the incidents by law belonging to that relation; nor is it necessary, in order to give a landlord the right of distress, that there is an agreement for that purpose between the parties. R.S.O. 1960, c. 206, s. 2.

Relation of  
landlord  
and tenant

**4.** All persons being grantees or assignees of the Queen, or of any person other than the Queen, and the heirs, executors, successors and assigns of every of them, shall have and enjoy like advantage against the lessees, their executors, administrators, and assigns, by entry for non-payment of the rent, or for doing of waste, or other forfeiture, and also shall have and enjoy all and

Remedies  
available to  
assignees of  
reversion



every such like and the same advantage, benefit, and remedies, by action only, for the non-performance of other conditions, covenants, or agreements, contained and expressed in the indentures of their said leases, demises or grants against all and every of the said lessees and grantees, their executors, administrators, and assigns as the said lessors or grantors themselves, or their heirs or successors, might have had and enjoyed at any time or times. R.S.O. 1960, c. 206, s. 3.

Lessee's  
covenant to  
run with  
reversion

**5.** Rent reserved by a lease and the benefit of every covenant or provision therein contained, having reference to the subject-matter thereof, and on the lessee's part to be observed or performed, and every condition of re-entry and other condition therein contained shall be annexed and incident to and shall go with the reversionary estate in the land or in any part thereof, immediately expectant on the term granted by the lease, notwithstanding severance of that reversionary estate, and shall be capable of being recovered, received, enforced and taken advantage of by any person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased. R.S.O. 1960, c. 206, s. 4.

Grantee of  
reversion  
may enforce  
covenants

**6.** The benefit of every condition of re-entry or forfeiture for a breach of any covenant or condition contained in a lease shall extend to and be enforced and taken advantage of by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased, although that person became, by conveyance or otherwise, so entitled after the condition of re-entry or forfeiture had become enforceable. R.S.O. 1960, c. 206, s. 5.

Action of  
covenant,  
etc., against  
assigns of  
grantors  
and lessors

**7.** All lessees and grantees of lands, tenements, rents, portions, or any other hereditaments for term of years, life or lives, their executors, administrators, and assigns shall and may have like action, advantage, and remedy against all and every person who shall have any gift or grant of the Queen, or of any other persons, of the reversion of the same lands, tenements and other hereditaments so let, or any parcel thereof, for any condition, covenant, or agreement, contained or expressed in the indentures of their leases as the same lessees or any of them, might and should have had against their said lessors, and grantors, their heirs, or successors. R.S.O. 1960, c. 206, s. 6.

Lessor's  
covenants  
to run with  
reversion

**8.** The obligation of a covenant entered into by a lessor with reference to the subject-matter of the lease shall, if and as far as the lessor has power to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to and shall go with that reversionary estate, or the several parts thereof, notwithstanding severance of that reversionary estate, and may be taken advantage of and enforced by

the person in whom the term is from time to time vested by conveyance, devolution in law, or otherwise, and, if and as far as the lessor has power to bind the person from time to time entitled to that reversionary estate, such obligation may be taken advantage of and enforced against any person so entitled. R.S.O. 1960, c. 206, s. 7.

**9.** Notwithstanding the severance by conveyance, surrender or otherwise, of the reversionary estate in any land comprised in a lease, and notwithstanding the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry and every other condition contained in the lease shall be apportioned, and shall remain annexed to the severed parts of the reversionary estate as severed, and shall be in force with respect to the term whereon each severed part is reversionary, or the term in any land which has not been surrendered, or as to which the term has not been avoided or has not otherwise ceased, in like manner as if the land comprised in each severed part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease. R.S.O. 1960, c. 206, s. 8.

Apportionment of conditions on severance, etc.

**10.—(1)** On a contract to grant a lease for a term of years to be derived out of a leasehold interest, with a leasehold reversion, the intended lessee does not have the right to call for the title to that reversion.

On sub-demise title to leasehold reversion not to be required

**(2)** This section applies only if and as far as the contrary intention is not expressed in the contract, and has effect subject to the terms of the contract and to the provisions therein contained. R.S.O. 1960, c. 206, s. 9.

Saving

**11.** Where, in the intended exercise of any power of leasing, whether derived under a statute or under an instrument lawfully creating such power, a lease has been, or is hereafter granted that is, by reason of the non-observance or omission of some condition or restriction or by reason of any other deviation from the terms of such power, invalid as against the person entitled, after the determination of the interest of the person granting such lease, to the reversion, or against other the person who, subject to any lease lawfully granted under such power, would have been entitled to the land comprised in such lease, such lease, in case it was made in good faith and the lessee named therein, his heirs, executors, administrators, or assigns have entered thereunder, shall be considered a contract for a grant at the request of the lessee, his heirs, executors, administrators, or assigns of a valid lease under such power, to the like purport and effect as such invalid lease, except so far as any variation may be necessary in order to comply with the terms of such power, and all persons who would have been bound by a lease lawfully granted under such

Effect of lease where there is a deviation from terms of the power to demise

power are bound by such contract; but no lessee under any such invalid lease, his heirs, executors, administrators, or assigns, are entitled by virtue of any such contract to obtain any variation of the lease, where the persons who would have been bound by the contract are willing to confirm the lease without variation. R.S.O. 1960, c. 206, s. 10.

What may  
be deemed a  
confirmation  
of invalid  
lease

**12.** Where, upon or before the acceptance of rent under any such invalid lease, any receipt, memorandum or note in writing confirming the lease is signed by the person accepting the rent, or some other person by him thereunto lawfully authorized, such acceptance shall, as against the person so accepting the rent, be deemed a confirmation of the lease. R.S.O. 1960, c. 206, s. 11.

Duty of  
lessee to  
accept con-  
firmation

**13.** Where, during the continuance of the possession taken under any such invalid lease, the person for the time being entitled, subject to such possession, to the land comprised in the lease, or to the possession or the receipt of the rents and profits thereof, is able to confirm the lease without variation, the lessee, his heirs, executors, or administrators, or any person who would have been bound by the lease if it had been valid, upon the request of the person so able to confirm it, is bound to accept a confirmation accordingly, and the confirmation may be by memorandum or note in writing signed by the persons confirming and accepting or by some other persons by them thereunto lawfully authorized, and, after confirmation and acceptance of confirmation, the lease is valid and shall be deemed to have had from the granting thereof the same effect as if it had been originally valid. R.S.O. 1960, c. 206, s. 12.

Effect of  
invalid  
leases if  
grantor  
continues in  
ownership  
until he  
might law-  
fully grant  
the lease

**14.** Where a lease granted in the intended exercise of a power of leasing is invalid by reason that, at the time of granting the lease, the person granting the lease could not lawfully grant the lease, but the estate of such person in the land comprised in the lease has continued after the time when the lease, or the like lease, might have been granted by him in the lawful exercise of such power, the lease takes effect and is as valid as if it had been granted at such last mentioned time, and all the provisions of sections 11 to 16 apply to every such lease. R.S.O. 1960, c. 206, s. 13.

What shall  
be deemed  
an intended  
exercise of  
a power

**15.** Where a valid power of leasing is vested in, or may be exercised by, a person granting a lease, and, by reason of the determination of the estate or interest of such person or otherwise, the lease cannot have effect and continuance according to the terms thereof independently of such power, the lease shall for the purposes of sections 11 to 14 be deemed to be granted in the intended exercise of such power although such power is not referred to in the lease. R.S.O. 1960, c. 206, s. 14.



**16.** Nothing in sections 11 to 15 extends to, prejudices or takes away any right of action, or other right or remedy to which, but for sections 11 to 15, the lessee named in any such lease, his heirs, executors, administrators or assigns would or might have been entitled under or by virtue of any covenant for title or quiet enjoyment contained in the lease on the part of the person granting the lease, or prejudices or takes away any right of re-entry or other right or remedy to which, but for such sections, the person granting the lease, his heirs, executors, administrators or assigns, or other person, for the time being entitled to the reversion expectant on the determination of the lease, would or might have been entitled for or by reason of any breach of the covenants, conditions, or provisos contained in the lease, and on the part of the lessee, his heirs, executors, administrators or assigns to be observed and performed. R.S.O. 1960, c. 206, s. 15.

Saving the rights of the lessees under certain covenants and the lessor's right of re-entry

**17.** Where the reversion expectant on a lease of land merges or is surrendered, the estate which for the time being confers as against the tenant under the lease the next vested right to the land shall, to the extent of and for preserving such incidents to and obligations on the reversion as but for the surrender or merger thereof would have subsisted, be deemed the reversion expectant on the lease. R.S.O. 1960, c. 206, s. 16.

Effect of surrender or merger of reversion expectant in certain cases

**18.**—(1) In every demise, whether by parol or in writing and whenever made, unless it is otherwise agreed, there shall be deemed to be included an agreement that if the rent reserved, or any part thereof, remains unpaid for fifteen days after any of the days on which it ought to have been paid, although no formal demand thereof has been made, it is lawful for the landlord at any time thereafter to re-enter into and upon the demised premises or any part thereof in the name of the whole and to have again, repossess and enjoy the same as of his former estate.

Right of re-entry on non-payment of rent

(2) In every such demise there shall be deemed to be included an agreement that if the tenant or any other person is convicted of keeping a disorderly house within the meaning of the *Criminal Code* (Canada) on the demised premises or any part thereof, it is lawful for the landlord at any time thereafter to re-enter into the demised premises or any part thereof and to have again, repossess and enjoy the same as of his former estate. R.S.O. 1960, c. 206, s. 17.

Implied agreement for re-entry on conviction of tenant for keeping disorderly house 1953-54, c. 51 (Can.)

**19.**—(1) In this section and in sections 20 to 23,

- (a) "action" includes any proceedings under Part III;
- (b) "lease" includes an original or derivative under-lease and a grant at a fee farm rent or securing a rent by condition and an agreement for a lease where a lessee has become entitled to have his lease granted;

Interpretation



- (c) "lessee" includes an original or derivative under-lessee and the heirs, executors, administrators and assigns of a lessee and a grantee under such a grant and his heirs and assigns;
- (d) "lessor" includes an original derivative under-lessor and the heirs, executors, administrators and assigns of a lessor and a grantor under such a grant and his heirs and assigns;
- (e) "mining lease" means a lease for mining purposes, that is a searching for, working, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture, carrying away or disposing of mines or minerals, and substances in, on or under the land, obtainable by underground or by surface working or purposes connected therewith, and includes a grant or licence for mining purposes;
- (f) "under-lease" includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted;
- (g) "under-lessee" includes any person deriving title under or from an under-lessee.

Restrictions  
on and relief  
against  
forfeiture  
of leases

(2) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease, other than a proviso in respect of the payment of rent, is not enforceable by action, entry, or otherwise, unless the lessor serves on the lessee a notice specifying the particular breach complained of, and, if the breach is capable of remedy, requiring the lessee to remedy the breach, and, in any case, requiring the lessee to make compensation in money for the breach, and the lessee fails within a reasonable time thereafter to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money to the satisfaction of the lessor for the breach. R.S.O. 1960, c. 206, s. 18.

Relief  
against  
forfeiture

**20.**—(1) Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture, whether for non-payment of rent or for other cause, the lessee may, in the lessor's action, if any, or if there is no such action pending, then in an action or summary application to a judge of the Supreme Court brought by himself, apply to the court for relief, and the court may grant such relief as, having regard to the proceedings and conduct of the parties under section 19 and to all the other circumstances, the court thinks fit, and on such terms as to payment of rent, costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future as the court considers just.

(2) This section and section 19 apply, although the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease in pursuance of the directions of a statute.

Where right of entry is under a statute

(3) For the purposes of this section, a lease limited to continue only as long as the lessee abstains from committing a breach of covenant is and takes effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach.

Lease until breach

(4) Where the action is brought to enforce a right of re-entry or forfeiture for non-payment of rent and the lessee, at any time before judgment, pays into court all the rent in arrear and the costs of the action, the proceedings in the action are forever stayed.

When proceedings may be stayed

(5) Where relief is granted under this section, the lessee shall hold and enjoy the demised premises according to the lease thereof made without any new lease.

Position of lessee

(6) This section applies to leases made either before or after the commencement of this Act and applies notwithstanding any stipulation to the contrary.

Application of section

(7) This section does not extend,

Exceptions

- (a) to a covenant or condition against the assigning, under-letting, parting with the possession, or disposing of the land leased; or to a condition for forfeiture on the bankruptcy of the lessee, or on the lessee making an assignment for the benefit of creditors under *The Assignments and Preferences Act*, or on the taking in execution of the lessee's interest; or
- (b) in the case of a mining lease, to a covenant or condition for allowing the lessor to have access to or inspect books, accounts, records, weighing machines or other things, or to enter or inspect the mine or the workings thereof.

R.S.O. 1970, c. 34

(8) Where the right of re-entry or forfeiture is in respect of a breach of a covenant or condition to insure, relief shall not be granted if at the time of the application for relief there is not an insurance on foot in conformity with the covenant or condition to insure except, in addition to any other terms that the court may impose, upon the term that the insurance is effected. R.S.O. 1960, c. 206, s. 19.

Condition for relief for non-insurance

**21.** Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso or stipulation in a lease, the court, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, either in the lessor's action, if any, or in any action or summary application to

Protection of under-lessees on forfeiture of superior lease

a judge of the Supreme Court brought by such person for that purpose, may make an order vesting for the whole term of the lease or any less term the property comprised in the lease, or any part thereof, in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of rents, costs, expenses, damages, compensation, giving security or otherwise as the court in the circumstances of each case thinks fit; but in no case is any such under-lessee entitled to require a lease to be granted to him for any longer term than he had under his original sub-lease. R.S.O. 1960, c. 206, s. 20.

Who must  
be parties to  
an action to  
enforce right  
of re-entry  
or forfeiture

**22.** Where a lessor is proceeding by action to enforce a right of re-entry or forfeiture under a covenant, proviso or stipulation in a lease, every person claiming any right, title or interest in the demised premises under the lease, if it is known to the lessor that he claims such right or interest or if the instrument under which he claims is registered in the proper registry or land titles office, shall be made a party to the action. R.S.O. 1960, c. 206, s. 21.

Licence to  
assign not  
to be un-  
reasonably  
withheld

**23.**—(1) In every lease made after the 1st day of September, 1911, containing a covenant, condition or agreement against assigning, underletting, or parting with the possession, or disposing of the land or property leased without licence or consent, such covenant, condition or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject to a proviso to the effect that such licence or consent is not to be unreasonably withheld.

Application  
to court  
where  
consent to  
assignment  
or sub-  
letting  
withheld

(2) Where the landlord refuses or neglects to give a licence or consent to an assignment or sub-lease, a judge of the county or district court, upon the application of the tenant or of the assignee or sub-tenant, made by way of originating notice according to the practice of the court, may make an order determining whether or not the licence or consent is unreasonably withheld and, where the judge is of opinion that the licence or consent is unreasonably withheld, permitting the assignment or sub-lease to be made, and such order is the equivalent of the licence or consent of the landlord within the meaning of any covenant or condition requiring the same and such assignment or sub-lease is not a breach thereof. R.S.O. 1960, c. 206, s. 22.

Restriction  
of effect of  
licence  
under power  
contained in  
lease, etc.

**24.** Where a licence to do any act that, without such licence, would create a forfeiture, or give a right to re-enter under a condition or power reserved in a lease, is given to a lessee or his assigns, every such licence, unless otherwise expressed, extends only to the permission actually given, or to any specific breach of any proviso or covenant, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but does not prevent a proceeding for any subsequent breach unless



otherwise specified in the licence, and all rights under covenants and powers of forfeiture and re-entry in the lease remain in full force and virtue, and are available as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or made dispunishable by such licence, in the same manner as if no such licence had been given, and the condition or right of re-entry remains in all respects as if the licence had not been given, except in respect of the particular matter authorized to be done. R.S.O. 1960, c. 206, s. 23.

**25.** Where in a lease there is a power or condition of re-entry on assigning or underletting or doing any other specified act without licence, and a licence has been or is given to one of several lessees or co-owners to assign or underlet his share or interest, or to do any other act prohibited to be done without licence, or has been or is given to a lessee or owner, or any one of several lessees or owners, to assign or underlet part only of the property, or to do any other such act in respect of part only of the property, the licence does not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees or owner or owners of the other shares or interest in the property, or by the lessee or owner of the rest of the property, over or in respect of such shares or interest or remaining property, but such right of re-entry remains in full force over or in respect of the shares or interests or property not the subject of the licence. R.S.O. 1960, c. 206, s. 24.

Restricted  
operation  
of partial  
licences

**26.** Where an actual waiver of the benefit of a covenant or condition in a lease, on the part of a lessor or his heirs, executors, administrators or assigns, is proved to have taken place in any one particular instance, such actual waiver shall not be assumed or deemed to extend to any instance or any breach of covenant or condition other than that to which the waiver specially relates, nor to be a general waiver of the benefit of any such covenant or condition unless an intention to that effect appears. R.S.O. 1960, c. 206, s. 25.

Restriction  
of effect of  
waiver of  
covenant

**27.—(1)** Unless it is otherwise specifically provided in a lease made after the 1st day of September, 1897, a covenant by a lessee for payment of taxes shall not be deemed to include an obligation to pay taxes assessed for local improvements.

Covenant to  
pay taxes  
not to  
include taxes  
for local im-  
provements

(2) In the case of a lease made under *The Short Forms of Leases Act* where the words "except for local improvements" are struck out or omitted from the covenant number 3 in Schedule B of that Act, such striking out or omission shall be deemed to be a specific provision otherwise made within the meaning of subsection 1. R.S.O. 1960, c. 206, s. 26.

Effect of  
altering  
form of  
covenant  
R.S.O. 1970,  
c. 436



Notice to  
quit in case  
of weekly or  
monthly  
tenancies

**28.** A week's notice to quit and a month's notice to quit, respectively, ending with the week or the month, is sufficient notice to determine, respectively, a weekly or monthly tenancy. R.S.O. 1960, c. 206, s. 27.

Penalty on  
tenant re-  
ceiving writ  
for recovery  
of land and  
not  
notifying  
his landlord

**29.** Every tenant to whom a writ in an action for the recovery of land has been delivered, or to whose knowledge it comes, shall forthwith give notice thereof to his landlord, or to his landlord's bailiff or receiver, and, if he omits so to do, he is answerable to his landlord for all damages sustained by him by reason of the failure to give such notice. R.S.O. 1960, c. 206, s. 28.

Exemption  
of goods

**30.**—(1) The goods and chattels exempt from seizure under execution are not liable to seizure by distress by a landlord for rent, except as hereinafter provided.

Monthly  
tenancies

(2) In the case of a monthly tenancy, the exemption only applies to two months arrears of rent.

Selection of  
exempted  
goods

(3) The person claiming the exemption shall select and point out the goods and chattels that he claims to be exempt. R.S.O. 1960, c. 206, s. 29.

Interpre-  
tation

**31.**—(1) In this section, subject to section 32, "tenant" includes a sub-tenant and the assigns of the tenant and any person in actual occupation of the premises under or with the assent of the tenant during the currency of the lease, or while the rent is due or in arrear, whether or not he has attorned to or become the tenant of the landlord.

Goods on  
premises not  
property of  
tenant to be  
exempt

(2) A landlord shall not distrain for rent on the goods and chattels of any person except the tenant or person who is liable for the rent, although the same are found on the premises; but this restriction does not apply in favour of a person claiming title under an execution against the tenant, or in favour of a person whose title is derived by purchase, gift, transfer, or assignment from the tenant, whether absolute or in trust, or by way of mortgage or otherwise, nor to the interest of the tenant in any goods or chattels on the premises in the possession of the tenant under a contract for purchase, or by which he may or is to become the owner thereof upon performance of any condition, nor where goods or chattels have been exchanged between tenants or persons by the one borrowing or hiring from the other for the purpose of defeating the claim of or the right of distress by the landlord, nor does the restriction apply where the property is claimed by the wife, husband, daughter, son, daughter-in-law, or son-in-law of the tenant, or by any other relative of his, if such other relative lives on the premises as a member of the tenant's family, or by any person whose title is derived by purchase, gift, transfer or assignment from any relative to whom the restriction does not apply.

(3) Nothing in this section exempts from distress goods or chattels in a store or shop managed or controlled by an agent or clerk for the owner of the goods or chattels where the clerk or agent is also the tenant and in default, and the rent is due in respect of the store or shop or premises rented therewith and thereto belonging, if the goods or chattels would have been liable to seizure but for this Act. R.S.O. 1960, c. 206, s. 30.

Goods in store managed by agent who is in default

**32.**—(1) In this section, “under-tenant” means a tenant to whom the premises or some part of the premises in respect of which rent is distrained for have been sub-let with the consent of the superior landlord or in default of such consent under the order of the judge of the county or district court as provided by subsection 2 of section 23.

Interpretation

(2) If a superior landlord distrains or threatens to distrain any goods or chattels of an under-tenant, boarder or lodger for arrears of rent due to him by his immediate tenant, the under-tenant, boarder or lodger may serve the superior landlord, or the bailiff or other person employed by him to levy the distress, with a statutory declaration made by the under-tenant, boarder or lodger setting forth that the immediate tenant has no right of property or beneficial interest in such goods or chattels, and that they are the property or in the lawful possession of the under-tenant, boarder or lodger, and also setting forth whether any and what amount by way of rent, board or otherwise is due from the under-tenant, boarder or lodger to the immediate tenant, and to the declaration shall be annexed a correct inventory, subscribed by the under-tenant, boarder or lodger, of the goods and chattels mentioned in the declaration, and the under-tenant, boarder or lodger may pay to the superior landlord, or to the bailiff or other person employed by him, the amount if any, so due, or so much thereof as is sufficient to discharge the claim of the superior landlord.

Declaration by boarder, under-tenant, or lodger that immediate tenant has no property in goods distrained

(3) If the superior landlord, bailiff or other person, after being served with the declaration and inventory, and after the under-tenant, boarder or lodger has paid or tendered to him the amount, if any, which by subsection 2 the under-tenant, boarder or lodger is authorized to pay, levies or proceeds with a distress on the goods or chattels of the under-tenant, boarder or lodger, the superior landlord, bailiff or other person is guilty of an illegal distress, and the under-tenant, boarder or lodger may replevy the goods or chattels in any court of competent jurisdiction, and the superior landlord is also liable to an action, at the suit of the under-tenant, boarder or lodger, in which the truth of the declaration and inventory may be inquired into.

Penalty for improper levy

(4) Any payment made by an under-tenant, boarder or lodger pursuant to subsection 2 is a valid payment on account of the amount due from him to the immediate tenant. R.S.O. 1960, c. 206, s. 31.

Effect of payments by under-tenant, boarder or lodger

Duty of tenant claiming exemption to surrender premises

**33.**—(1) A tenant in default for non-payment of rent is not entitled to the benefit of the exemption provided for by section 30 unless he gives up possession of the premises forthwith or is ready and offers to do so.

To whom offer of surrender to be made

(2) The offer may be made to the landlord or to his agent, and the person authorized to seize and sell the goods and chattels, or having the custody of them for the landlord, shall be considered an agent of the landlord for the purpose of the offer and surrender to the landlord of possession. R.S.O. 1960, c. 206, s. 32.

Seizure of exempted goods

**34.**—(1) Where a landlord desires to seize exempted goods, he shall, after default has been made in the payment of rent and before or at the time of seizure, serve the tenant with a notice (Form 1).

Effect of surrender of possession

(2) The surrender of possession in pursuance of the notice is a determination of the tenancy. R.S.O. 1960, c. 206, s. 33.

Right of set off

**35.**—(1) A tenant may set off against the rent due a debt due to him by the landlord.

Notice

(2) Notice of the claim of set off (Form 2) may be given before or after the seizure.

Effect of notice

(3) When the notice is given, the landlord is entitled to distrain, or to proceed with the distress, only for the balance of the rent after deducting any debt justly due by him to the tenant that is mentioned in the notice. R.S.O. 1960, c. 206, s. 34.

Service of notices

**36.**—(1) Service of notices under sections 28, 34 and 35 shall be made either personally or by leaving the same with a grown-up person in and apparently residing on the premises occupied by the person to be served.

Posting up notice in lieu of service

(2) If the tenant cannot be found and his place of abode is not known, or admission thereto cannot be obtained, the posting up of the notice on some conspicuous part of the premises is good service. R.S.O. 1960, c. 206, s. 35.

Formal defects not to invalidate

**37.** No proceeding under sections 33 to 36 shall be rendered invalid by any defect in form. R.S.O. 1960, c. 206, s. 36.

Lien of landlord in bankruptcy, etc.

**38.**—(1) In case of an assignment for the general benefit of creditors, or an order being made for the winding up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment has been made by or against a tenant, the preferential lien of the landlord for rent is restricted to the arrears of rent due during the period of three months next preceding, and for three months following the execution of the assignment, and from thence so long as the assignee retains



possession of the premises, but any payment to be made to the landlord in respect of accelerated rent shall be credited against the amount payable by the assignee, liquidator or trustee for the period of his occupation.

(2) Notwithstanding any provision, stipulation or agreement in any lease or agreement or the legal effect thereof, in case of an assignment for the general benefit of creditors, or an order being made for the winding up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment has been made by or against a tenant, the assignee, liquidator or trustee may at any time within three months thereafter for the purposes of the trust estate and before he has given notice of intention to surrender possession or disclaim, by notice in writing elect to retain the leased premises for the whole or any portion of the unexpired term and any renewal thereof, upon the terms of the lease and subject to the payment of the rent as provided by the lease or agreement, and he may, upon payment to the landlord of all arrears of rent, assign the lease with rights of renewal, if any, to any person who will covenant to observe and perform its terms and agree to conduct upon the demised premises a trade or business which is not reasonably of a more objectionable or hazardous nature than that which was thereon conducted by the debtor, and who on application of the assignee, liquidator or trustee, is approved by a judge of the Supreme Court as a person fit and proper to be put in possession of the leased premises. R.S.O. 1960, c. 206, s. 37.

**39.**—(1) The assignee, liquidator or trustee has the further right, at any time before so electing, by notice in writing to the landlord, to surrender possession or disclaim any such lease, and his entry into possession of the leased premises and their occupation by him, while required for the purposes of the trust estate, shall not be deemed to be evidence of an intention on his part to elect to retain possession pursuant to section 38.

(2) Where the assignor, or person or firm against whom a receiving order has been made in bankruptcy, or a winding up order has been made, being a lessee, has, before the making of the assignment or such order demised any premises by way of under-lease, approved or consented to in writing by the landlord, and the assignee, liquidator or trustee surrenders, disclaims or elects to assign the lease, the under-lessee, if he so elects in writing within three months of such assignment or order, stands in the same position with the landlord as though he were a direct lessee from the landlord but subject, except as to rental payable, to the same liabilities and obligations as the assignor, bankrupt or insolvent company was subject to under the lease at the date of the assignment or order, but the under-lessee shall in such event be required to covenant to pay to the landlord a rental not less



than that payable by the under-lessee to the debtor, and if such last mentioned rental was greater than that payable by the debtor to the said landlord, the under-lessee shall be required to covenant to pay to the landlord the like greater rental.

Settlement  
of disputes

(3) In the event of any dispute arising under this section or section 38, the dispute shall be disposed of by a judge of the Supreme Court upon a summary application. R.S.O. 1960, c. 206, s. 38.

Distress for  
rents seek

**40.** Every person has the like remedy by distress and by impounding and selling the property distrained in cases of rents seek as in case of rent reserved upon lease. R.S.O. 1960, c. 206, s. 39.

Distress for  
arrears on  
leases  
determined

**41.** A person having any rent due and in arrear, upon any lease for life or lives or for years, or at will, ended or determined, may distrain for such arrears, after the determination of the lease, in the same manner as he might have done if the lease had not been ended or determined, if the distress is made within six months after the determination of the lease, and during the continuance of the landlord's title or interest, and during the possession of the tenant from whom the arrears became due. R.S.O. 1960, c. 206, s. 40.

Right of  
persons  
entitled to  
rent during  
life of  
another to  
recover  
same after  
death

**42.** A person entitled to any rent or land for the life of another may recover by action or distress the rent due and owing at the time of the death of the person for whose life such rent or land depended as he might have done if the person by whose death the estate in such rent or land determined had continued in life. R.S.O. 1960, c. 206, s. 41.

Distress to be  
reasonable

**43.** Distress shall be reasonable. R.S.O. 1960, c. 206, s. 42.

Right to  
distrain  
grain, etc.

**44.** A person having rent due and in arrear upon any demise, lease, or contract may seize and secure any sheaves or cocks of grain, or grain loose, or in the straw, or hay, lying or being in any barn or granary or otherwise upon any part of the land charged with such rent, and may lock up or detain the same in the place where the same is found, for or in the nature of a distress until the same is replevied, and in default of the same being replevied, may sell the same after appraisalment thereof is made; but such grain or hay so distrained shall not be removed by the person distraining, to the damage of the owner thereof out of the place where the same is found and seized, but shall be kept there, as impounded, until it is replevied or sold in default of replevying. R.S.O. 1960, c. 206, s. 43.

Right to  
distrain  
cattle or  
live stock

**45.**—(1) A landlord may take and seize, as a distress for arrears of rent, any cattle or live stock of his tenant feeding or pasturing upon any highway, or on any way belonging to the demised premises or any part thereof.

(2) Subject to subsection 4, a landlord may take and seize standing crops as a distress for arrears of rent, and may cut, gather, make, cure, carry and lay up the same, when ripe, in the barns or other proper place on the demised premises and, if there is no barn or proper place on the demised premises, then in any other barn or proper place which the landlord hires or otherwise procures for that purpose as near as may be to the premises, and may in convenient time appraise, sell or otherwise dispose of the same towards satisfaction for the rent for which the distress is made, and of the charges of the distress, appraisalment and sale in the same manner as other goods and chattels may be seized, distrained and disposed of, and the appraisalment thereof shall be taken when cut, gathered, cured and made and not before.

Distress of standing crops

(3) Notice of the place where the goods and chattels so distrained are lodged or deposited shall, within one week after the lodging or depositing thereof, be given to the tenant or left at his last place of abode.

Tenant's right to notice of place of keeping

(4) If, after a distress of standing crops so taken for arrears of rent, and at any time before the same are ripe and cut, cured or gathered, the tenant pays to the landlord for whom the distress is taken the whole rent then in arrear, with the full costs and charges of making the distress and occasioned thereby, then, upon such payment or lawful tender thereof, the same and every part thereof shall cease, and the standing crops so distrained shall be delivered up to the tenant.

Satisfying distress of standing crops

(5) Where standing crops are distrained for rent they may, at the option of the landlord, be advertised and sold in the same manner as other goods, and it is not necessary for the landlord to reap, thresh, gather or otherwise market them.

Sale of standing crop

(6) Any person purchasing standing crops at such sale is liable for the rent of the land upon which they are standing at the time of the sale, and until they are removed, unless the rent has been paid or has been collected by the landlord, or has been otherwise satisfied, and the rent shall, as nearly as may be, be the same as that which the tenant whose goods were sold was to pay, having regard to the quantity of land, and to the time during which the purchaser occupies it. R.S.O. 1960, c. 206, s. 44.

Liability of purchaser of standing crops

**46.** Beasts that gain the land and sheep shall not be distrained if there are other chattels sufficient to satisfy the demand. R.S.O. 1960, c. 206, s. 45.

Conditional exemption of certain beasts

WHERE DISTRESS MAY BE TAKEN

**47.** Save as herein otherwise provided, goods or chattels that are not at the time of the distress upon the premises in respect of which the rent distrained for is due, shall not be distrained for rent. R.S.O. 1960, c. 206, s. 46.

Chattels not to be distrained off the premises

## FRAUDULENT REMOVAL

Landlords  
may dis-  
train goods  
fraudulently  
carried off  
the premises

**43.**—(1) Where any tenant, for life or lives, term of years, at will, sufferance or otherwise, of any messuages, lands, tenements or hereditaments, upon the demise or holding whereof any rent is reserved, due, or made payable, fraudulently or clandestinely conveys away, or carries off or from the premises his goods or chattels to prevent the landlord from distraining them for arrears of rent so reserved, due, or made payable, the landlord or any person by him for that purpose lawfully empowered, may, within thirty days next ensuing such conveying away or carrying off, take and seize such goods and chattels wherever they are found, as a distress for such arrears of rent, and sell or otherwise dispose of them in such manner as if they had actually been distrained by the landlord upon such premises for such arrears of rent.

Exception

(2) No landlord or other person entitled to such arrears of rent shall take or seize, as a distress for the same, any such goods or chattels that have been sold in good faith and for a valuable consideration, before such seizure made, to any person not privy to such fraud. R.S.O. 1960, c. 206, s. 47.

Right of  
landlord to  
break open  
houses where  
goods  
fraudulently  
secured

**49.** Where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant, his servant, or agent, or other person aiding or assisting therein, are or are believed to be in any house, barn, stable, outhouse, yard, close or place, locked up, fastened or otherwise secured so as to prevent them from being taken and seized as a distress for arrears of rent, the landlord or his agent may take and seize, as a distress for rent, such goods and chattels, first calling to his assistance a peace officer who is hereby required to aid and assist therein, and, in case of a dwelling house, oath being also first made of a reasonable ground to believe that such goods or chattels are therein, and, in the daytime, break open and enter into such house, barn, stable, outhouse, yard, close or place and take and seize such goods and chattels for the arrears of rent as he might have done if they were in an open field or place upon the premises from which they were so conveyed or carried away. R.S.O. 1960, c. 206, s. 48.

Penalty for  
fraudulently  
removing,  
or assisting  
to remove,  
goods

**50.** If a tenant so fraudulently removes, conveys away or carries off his goods or chattels, or if any person wilfully and knowingly aids or assists him in so doing, or in concealing them, every person so offending shall forfeit and pay to the landlord double the value of such goods or chattels, to be recovered by action in any court of competent jurisdiction. R.S.O. 1960, c. 206, s. 49.

Beasts dis-  
trained not  
to be driven  
out of the  
municipality

**51.**—(1) Beasts or cattle distrained shall not be removed or driven out of the city, town, village or township in which they were distrained, except to a fitting pound or enclosure in the same county or district not more than three miles distant from the place where the distress was taken.



(2) No cattle or other goods or chattels distrained or taken by way of distress for any cause at one time shall be impounded in several places. Impounding

(3) Every person contravening this section shall forfeit to the person aggrieved \$20 in addition to the damages sustained by him. Penalty

(4) Any person lawfully taking any distress for any kind of rent may impound or otherwise secure the distress so made in such place or on such part of the premises chargeable with the rent as is most fit and convenient for that purpose, and may appraise, sell and dispose of the same upon the premises, and it is lawful for any person to come and go to and from such place or part of the premises where any distress for rent is so impounded and secured to view, appraise and buy, and to carry off or remove the same on account of the purchaser thereof. R.S.O. 1960, c. 206, s. 50. Where goods may be impounded

**52.** Upon any pound breach or rescue of goods or chattels distrained for rent, the person offending or the owner of the goods distrained in case they are afterwards found to have come to his use or possession, shall forfeit to the person aggrieved \$20 in addition to the damages sustained by him. R.S.O. 1960, c. 206, s. 51. Pound breach or rescue

**53.** Where any goods or chattels are distrained for any rent reserved and due upon any demise, lease or contract, and the tenant or owner of them does not, within five days next after such distress taken and notice thereof, with the cause of such taking, left at the dwelling house or other most conspicuous place on the premises charged with the rent distrained for, replevy the same, then, after the distress and notice and the expiration of such five days, the person distraining shall cause the goods and chattels so distrained to be appraised by two appraisers, who shall first be sworn to appraise them truly, according to the best of their understandings, a memorandum of which oath is to be endorsed on the inventory, and after such appraisement the person so distraining may lawfully sell the goods and chattels so distrained for the best price that can be got for them towards satisfaction of the rent for which they were distrained and of the charges of the distress, appraisement and sale, and shall hold the overplus, if any, for the owner's use and pay it over to him on demand. R.S.O. 1960, c. 206, s. 52. Sale of distress, when it may be made

**54.** Where a distress is made for any kind of rent justly due, and any irregularity or unlawful act is afterwards done by the person distraining, or by his agent, or if there has been an omission to make the appraisement under oath, the distress itself shall not be therefore deemed to be unlawful, nor the person making it be deemed a trespasser *ab initio*, but the person aggrieved by the Irregularities not to make distress void *ab initio*



unlawful act or irregularity may recover by action full satisfaction for the special damage sustained thereby. R.S.O. 1960, c. 206, s. 53.

Wrongful  
distress

**55.**—(1) A distrainer who takes an excessive distress, or takes a distress wrongfully, is liable in damages to the owner of the goods or chattels distrained.

Where no  
rent due

(2) Where a distress and sale are made for rent pretended to be in arrear and due when, in truth, no rent is in arrear or due to the person distraining, or to the person in whose name or right such distress is taken, the owner of the goods or chattels distrained and sold, his executors or administrators are entitled, by action to be brought against the person so distraining, to recover full satisfaction for the damage sustained by the distress and sale. R.S.O. 1960, c. 206, s. 54.

Goods taken  
in execution  
not to be  
removed till  
rent paid

**56.**—(1) Goods or chattels lying or being in or upon any land leased for life or lives, or term of years, at will, or otherwise are not liable to be taken by virtue of any execution issued out of the Supreme Court or out of a county or district court on any pretence whatsoever, unless the party at whose suit the execution is sued out before the removal of such goods or chattels from the premises by virtue of such execution pays to the landlord or his bailiff all money due for rent of the premises at the time of the taking of such goods or chattels by virtue of such execution if the arrears of rent do not amount to more than one year's rent.

When  
execution  
may be pro-  
ceeded with

(2) If such arrears exceed one year's rent, the party at whose suit such execution is sued out, on paying the landlord or his bailiff one year's rent, may proceed to execute his judgment.

What to be  
paid to  
execution  
creditor

(3) The sheriff or other officer shall levy and pay to the execution creditor as well the money so paid for rent as the execution money. R.S.O. 1960, c. 206, s. 55.

Liability of  
growing  
crops seized  
and sold  
under execu-  
tion for ac-  
cruing rent

**57.** Where all or any part of the standing crops of the tenant of any land is seized and sold by a sheriff or other officer by virtue of a writ of execution, such crops, so long as they remain on the land in default of sufficient distress of the goods and chattels of the tenant, are liable for the rent that may accrue and become due to the landlord after any such seizure and sale, and to the remedies by distress for recovery of such rent, and that notwithstanding any bargain and sale or assignment that may have been made or executed of such crops by any such sheriff or other officer. R.S.O. 1960, c. 206, s. 56.

Penalty of  
double value  
for over-  
holding

**58.** Where a tenant for any term for life, lives or years, or other person who comes into possession of any land, by, from, or under, or by collusion with such tenant, wilfully holds over the land or any part thereof after the determination of the term, and after

notice in writing given for delivering the possession thereof by his landlord or the person to whom the remainder or reversion of the land belongs or his agent thereunto lawfully authorized, the tenant or other person so holding over shall, for and during the time he so holds over or keeps the person entitled out of possession, pay to such person or his assigns at the rate of double the yearly value of the land so detained for so long as it is detained, to be recovered by action in any court of competent jurisdiction, against the recovering of which penalty there is no relief. R.S.O. 1960, c. 206, s. 57.

**59.** Where a tenant gives notice of his intention to quit the premises by him held at a time mentioned in the notice and does not accordingly deliver up the possession thereof at the time mentioned in the notice, the tenant shall from thenceforward pay to the landlord double the rent or sum that he should otherwise have paid, to be levied, sued for and recovered at the same times and in the same manner as the single rent or sum before the giving such notice could be levied, sued for or recovered, and such double rent or sum shall continue to be paid while the tenant continues in possession. R.S.O. 1960, c. 206, s. 58.

Penalty of double rent for overholding

**60.** The executors or administrators of a landlord may distrain for the arrears of rent due to the landlord in his lifetime, and may sue for the same in like manner as the landlord might have done if living, and the powers and provisions contained in this Act relating to distresses for rent are applicable to the distresses so made. R.S.O. 1960, c. 206, s. 59.

Right of personal representatives to distrain for arrears

**61.** Every attornment of a tenant of any land to a stranger claiming title to the estate of his landlord is void, and the possession of his landlord shall not be deemed to be changed, altered or affected by any such attornment; but nothing herein vacates or affects any attornment made pursuant to and in consequence of a judgment or order of a court, or made with the privity and consent of the landlord, or to any mortgagee after the mortgage has become forfeited. R.S.O. 1960, c. 206, s. 60.

Nullity of attornment to stranger

**62.—(1)** Every grant or conveyance of any rent or of the reversion or remainder of any land is good and effectual without any attornment of the tenant of the land out of which such rent issues, or of the particular tenant upon whose particular estate any such reversion or remainder is expectant or depending.

Attornment of tenant, in what cases not necessary

**(2)** A tenant shall not be prejudiced or damaged by the payment of rent to any grantor or by breach of any condition for non-payment of rent before notice to him of such grant by the grantee. R.S.O. 1960, c. 206, s. 61.

Tenant not to be prejudiced

Chief leases may be removed without surrendering all the under-leases

**63.**—(1) Where a lease is duly surrendered in order to be renewed and a new lease is made and executed by the chief landlord, the new lease is, without a surrender of all or any of the under-leases, as good and valid as if all the under-leases derived thereout had been likewise surrendered at or before the time of taking of such new lease.

Rights and remedies of parties thereunder

(2) Every person in whom any estate for life, or lives, or for years, is from time to time vested by virtue of such new lease is entitled to the rents, covenants and duties, and has like remedy for recovery thereof, and the under-lessees shall hold and enjoy the land in the respective under-leases comprised as if the original lease had been kept on foot and continued, and the chief landlord has and is entitled to such and the same remedy by distress or entry in and upon the land comprised in any such under-lease for the rents and duties reserved by the new lease, so far as they do not exceed the rents and duties reserved in the lease out of which the under-lease was derived, as he would have had if such former lease had been still continued or as he would have had if the respective under-leases had been renewed under the new principal lease. R.S.O. 1960, c. 206, s. 62.

Who may renew on behalf of persons out of Ontario

**64.**—(1) Where a person who, in pursuance of any covenant or agreement in writing, if in Ontario and amenable to the process of the Supreme Court, might be compelled to execute any lease by way of renewal, is not in Ontario or is not amenable to the process of the court, the court, upon the motion of any person entitled to such renewal, whether such person is or is not under any disability, may direct such person as the court thinks proper to appoint for that purpose to accept a surrender of the subsisting lease and to make and execute a new lease in the name of the person who ought to have renewed it.

Validity of such new lease

(2) A new lease executed by the person so appointed is as valid as if the person in whose name it was made was alive and not under any disability and had himself executed it.

Discretion of court to direct action to be brought

(3) In every such case it is in the discretion of the court to direct an action to be brought to establish the right of the person seeking the renewal, and not to make the order for such new lease unless by the judgment to be made in such action, or until after it has been entered.

Conditions

(4) A renewed lease shall not be executed by virtue of this section in pursuance of any covenant or agreement unless the sum or sums of money, if any, that ought to be paid on such renewal and the things, if any, that ought to be performed in pursuance of such covenant or agreement by the tenant be first paid and performed, and counterparts of every such renewed lease shall be duly executed by the tenant.

(5) All sums of money that are had, received or paid for, or on account of, the renewal of any lease by any person out of Ontario or not amenable to the process of the Supreme Court, after a deduction of all necessary incidental charges and expenses, shall be paid to such person or in such manner or into the Supreme Court to such account, and be applied and disposed of, as the court directs. Premiums, how to be paid

(6) The court may order the costs and expenses of and relating to the applications, orders, directions, conveyances and transfers, or any of them, to be paid and raised out of or from the land, or the rents in respect of which they are respectively made, in such manner as the court considers proper. R.S.O. 1960, c. 206, s. 63. Costs

## PART II

**65.** In this Part, “judge” means the judge of the county or district court of the county or district in which a distress to which this Part applies is made. R.S.O. 1960, c. 206, s. 64. Interpretation

**66.**—(1) Where goods or chattels are distrained by a landlord for arrears of rent and the tenant disputes the right of the landlord to distrain in respect of the whole or any part of the goods or chattels, or disputes the amount claimed by the landlord, or the tenant claims to set off against the rent a debt that the landlord disputes, the landlord or the tenant may apply to the judge to determine the matters so in dispute, and the judge may hear and determine them in a summary way, and may make such order in the premises as he considers just. Disputes as to right to distrain

(2) Where the tenant disputes the right of the landlord to distrain in respect of the whole or any part of the goods or chattels, or disputes the amount claimed by the landlord, the landlord or the tenant may, before any distress has been made, apply to the judge to determine the matter so in dispute, and the judge may hear and determine it in a summary way, and may make such order in the premises as he considers just. R.S.O. 1960, c. 206, s. 65. Application to judge by landlord or tenant

**67.** Where notice of such an application has been given to the landlord or tenant, as the case may be, the judge, pending the disposition of it by him, may make such order as he considers just for the restoration to the tenant of the whole or any part of the goods or chattels distrained, or preventing a distress being made, upon the tenant giving security, by payment into court or otherwise as the judge directs, for the payment of the rent that is found due to the landlord and for the costs of the distress and of the proceedings before the judge and of any appeal from his order, or such of them as the tenant may be ordered to pay. R.S.O. 1960, c. 206, s. 66. Order of judge pending determination of dispute



Jurisdiction  
of judge

**68.** The judge has jurisdiction and authority to determine any question arising upon the application that the court of which he is judge has jurisdiction to determine in an action brought in that court. R.S.O. 1960, c. 206, s. 67.

Where judge  
to direct  
that action  
be brought  
or issue  
tried

**69.** Where the amount of the rent claimed by the landlord exceeds \$800 or where any question is raised that a county or district court would not have jurisdiction to try in an action brought in such court, the judge shall not, without the consent in writing of the landlord and the tenant, deal with the application summarily, but shall direct an action to be brought or an issue to be tried in the Supreme Court for the determination of the matters in dispute. R.S.O. 1960, c. 206, s. 68.

Interim  
order for  
restoration  
of goods  
on security  
being given,  
etc.

**70.**—(1) Where the judge directs an action to be brought or an issue to be tried under section 69, he has the like power as to the restoration to the tenant of the goods or chattels or of any part of them and to the prevention of a distress being made as is conferred by section 67, and, where it is exercised, the security shall be as provided in that section except that, as to costs, it shall be not only for the costs of the proceedings before the judge but also for the costs of the action or issue, including any appeal therein or such of them as the tenant may be ordered to pay.

Costs

(2) The Supreme Court shall determine by whom and in what manner the costs of the action or issue and of the application to the judge are to be borne and paid.

Entry of  
judgment

(3) Judgment may be entered in accordance with the direction of the court, made at or after the trial, and may be enforced in like manner as a judgment of the court. R.S.O. 1960, c. 206, s. 69.

When deci-  
sion of judge  
final

**71.** Where the amount claimed by the landlord does not exceed \$100, the decision of the judge is final. R.S.O. 1960, c. 206, s. 70.

Appeal from  
summary  
determina-  
tion

**72.** Where the amount claimed by the landlord exceeds \$100, an appeal lies from any order of the judge made on an application to him under section 66 by which the matters in dispute are determined, in like manner as if it were a judgment of the court of which he is judge pronounced in an action. R.S.O. 1960, c. 206, s. 71.

Appeal  
where action  
brought or  
issue tried

**73.** Where an issue is tried, there is the same right to appeal from the judgment as if the judgment had been pronounced in an action. R.S.O. 1960, c. 206, s. 72.

Scale of  
costs

**74.** Where the amount claimed by the landlord does not exceed \$100, the costs of the proceedings before the judge shall be on the small claims court scale, and where the amount claimed

exceeds \$100, they shall be on the county court scale, except in an action or issue in the Supreme Court directed under section 69. R.S.O. 1960, c. 206, s. 73, *amended*.

**75.** Nothing in this Part takes away or affects any remedy that a tenant may have against his landlord or require a tenant to proceed under this Part instead of by bringing an action, but where, instead of proceeding under this Part, he proceeds by action, the court in which the action is brought, if of opinion that it was unnecessarily brought and that a complete remedy might have been had by a proceeding under this Part, may direct the tenant, although he succeeds, to pay any additional costs occasioned by his having brought the action. R.S.O. 1960, c. 206, s. 74. Other remedies of tenant

### PART III

**76.**—(1) Where a tenant after his lease or right of occupation, whether created by writing or by parol, has expired or been determined, either by the landlord or by the tenant, by a notice to quit or notice pursuant to a proviso in a lease or agreement in that behalf, or has been determined by any other act whereby a tenancy or right of occupancy may be determined or put an end to, wrongfully refuses or neglects to go out of possession of the land demised to him, or which he has been permitted to occupy, his landlord may apply upon affidavit to the judge of the county or district court of the county or district in which the land lies to make the inquiry hereinafter provided for. Application to county court judge against overholding tenant

(2) The judge shall in writing appoint a time and place at which he will inquire and determine whether the person complained of was tenant to the complainant for a term or period that has expired or has been determined by a notice to quit or for default in payment of rent or otherwise, and whether the tenant holds the possession against the right of the landlord, and whether the tenant, having no right to continue in possession, wrongfully refuses to go out of possession. Inquiry and determination

(3) Notice in writing of the time and place appointed, stating briefly the principal facts alleged by the complainant as entitling him to possession, shall be served upon the tenant or left at his place of abode at least three days before the day so appointed, if the place appointed is not more than twenty miles from the tenant's place of abode, and one day in addition for every twenty miles above the first twenty, reckoning any broken number above the first twenty as twenty miles, to which notice shall be annexed a copy of the judge's appointment and of the affidavit on which it was obtained, and of the documents to be used upon the application. R.S.O. 1960, c. 206, s. 75. Notice

Proceedings,  
how  
entitled

**77.** The proceedings under this Part shall be entitled in the county or district court of the county or district in which the land lies, and shall be styled:

In the matter of (*giving the name of the party complaining*),  
Landlord, against (*giving the name of the party complained against*)  
Tenant.

R.S.O. 1960, c. 206, s. 76.

Proceedings  
in default of  
appearance

**78.**—(1) If, at the time and place appointed, the tenant fails to appear, the judge, if it appears to him that the tenant wrongfully holds against the right of the landlord, may order a writ of possession (Form 3) directed to the sheriff of the county or district in which the land lies to be issued commanding him forthwith to place the landlord in possession of the land.

In case of  
appearance

(2) If the tenant appears, the judge shall, in a summary manner, hear the parties and their witnesses, and examine into the matter, and, if it appears to the judge that the tenant wrongfully holds against the right of the landlord, he may order the issue of the writ. R.S.O. 1960, c. 206, s. 77.

Power of  
amendment

**79.** The judge has the same power to amend or excuse irregularities in the proceedings as he would have in an action. R.S.O. 1960, c. 206, s. 78.

Appeal

R.S.O. 1970,  
c. 94

**80.**—(1) An appeal lies to the Court of Appeal from the order of the judge granting or refusing a writ of possession, and the provisions of *The County Courts Act* as to appeals apply to such an appeal.

Discharging  
order for  
possession  
on appeal

(2) If the Court of Appeal is of opinion that the right to possession should not be determined in a proceeding under this Part, the court may discharge the order of the judge, and the landlord may in that case proceed by action for the recovery of possession.

Restoring  
tenant to  
possession

(3) When the order is discharged, if possession has been given to the landlord under a writ of possession, the court may direct that possession be restored to the tenant. R.S.O. 1960, c. 206, s. 79.

## PART IV

### RESIDENTIAL TENANCIES

Interpre-  
tation

**81.** In this Part,

- (a) "security deposit" means money or any property or right paid or given by a tenant of residential premises to a landlord or his agent or to anyone on his behalf to be held by or for the account of the landlord as security for the performance of an obligation or the payment of a

liability of the tenant or to be returned to the tenant upon the happening of a condition;

- (b) “tenancy agreement” means an agreement between a tenant and a landlord for possession of residential premises, whether written, oral or implied. 1968-69, c. 58, s. 3, *part*.

**82.**—(1) This Part applies to tenancies of residential premises and tenancy agreements notwithstanding any other Act or Parts I, II or III of this Act and notwithstanding any agreement or waiver to the contrary except as specifically provided in this Part. 1968-69, c. 58, s. 3, *part*. Application of Part

(2) Except where otherwise expressly provided in this Part, this Part applies to tenancies under tenancy agreements entered into or renewed before and subsisting on the 1st day of January, 1970 or entered into on or after the 1st day of January, 1970. 1968-69, c. 58, s. 3, *part, amended*. Application to existing tenancies

**83.**—(1) Where a tenancy agreement in writing is executed by a tenant on or after the 1st day of January, 1970, the landlord shall ensure that a fully executed duplicate original copy of the tenancy agreement is delivered to the tenant within twenty-one days after its execution and delivery by the tenant. Delivery of copy of tenancy agreement

(2) Where the copy of a tenancy agreement is not delivered in accordance with subsection 1, the obligations of the tenant thereunder cease until such copy is delivered to him. 1968-69, c. 58, s. 3, *part, amended*. Failure to deliver copy of tenancy agreement

**84.**—(1) A landlord shall not require or receive a security deposit from a tenant under a tenancy agreement entered into or renewed on or after the 1st day of January, 1970 other than the rent for a rent period not exceeding one month, which payment shall be applied in payment of the rent for the last rent period under the tenancy agreement. Security deposits

(2) A landlord shall pay annually to the tenant interest on the security deposit for rent referred to in subsection 1 at the rate of 6 per cent per year. Interest

(3) On and after the 1st day of January, 1970, a landlord or a tenancy agreement shall not require the delivery of any post-dated cheque or other negotiable instrument to be used for payment of rent. 1968-69, c. 58, s. 3, *part, amended*. Post-dated cheques

**85.**—(1) This section applies to security deposits held by landlords on the 1st day of January, 1970 other than security deposits for rent only as described in section 84. 1968-69, c. 58, s. 3, *part, amended*. Security deposits already held



- Interest (2) The landlord shall pay interest annually on any moneys held by him as a security deposit at the rate of 6 per cent per year.
- Repayment (3) Subject to subsection 4, the landlord shall pay the security deposit to the tenant, together with the unpaid interest that has accrued thereon, within fifteen days after the tenancy is terminated or renewed, but a judge of the county or district court of the county or district in which the premises are situate may, upon summary application therefor, extend the time to such longer period as he considers proper.
- Retentions (4) Where the landlord proposes to retain any amount out of the security deposit, he shall so notify the tenant together with the particulars of and grounds for the retention and he shall not retain such amount unless,  
(a) the tenant consents thereto in writing after receipt of the notice; or  
(b) he obtains an order of the judge under subsections 5 and 6.
- Order for retention (5) A landlord may apply to a judge of the county or district court in the county or district in which the premises are situate for an order authorizing the retention of all or part of a security deposit in the same manner as upon an application for termination of a tenancy and section 106 applies to the application *mutatis mutandis*.
- Idem (6) Upon an application under subsection 5, the judge may dismiss the application or order that all or part of the security deposit be retained by the landlord to be applied on account of any obligation of liability of the tenant for which the security deposit was taken. 1968-69, c. 58, s. 3, *part*.
- Distress abolished **86.**—(1) No landlord shall distress for default in the payment of rent whether a right of distress has heretofore existed by statute, the common law or contract. 1968-69, c. 58, s. 3, *part*.
- Application of subsection 1 (2) Subsection 1 applies to default in payment of rent under a tenancy agreement entered into or renewed on or after the 1st day of January, 1970 and to default in payment under a tenancy agreement for a periodic tenancy of rent accruing on or after the 1st day of January, 1970. 1968-69, c. 58, s. 3, *part, amended*.
- Interesse termini* abolished **87.**—(1) The doctrine of *interesse termini* is hereby abolished.
- Idem (2) All tenancy agreements are capable of taking effect at law or in equity from the date fixed for commencement of the term, without actual entry. 1968-69, c. 58, s. 3, *part*.
- Application of section (3) This section applies to tenancy agreements entered into or renewed on or after the 1st day of January, 1970. 1968-69, c. 58, s. 3, *part, amended*.

**88.** The doctrine of frustration of contract applies to tenancy agreements and *The Frustrated Contracts Act* applies thereto. 1968-69, c. 58, s. 3, *part*. Frustration R.S.O. 1970, c. 185

**89.** Subject to this Part, the common law rules respecting the effect of the breach of a material covenant by one party to a contract on the obligation to perform by the other party apply to tenancy agreements. 1968-69, c. 58, s. 3, *part*. Covenants inter-dependent

**90.** Covenants concerning things related to the rented premises run with the land whether or not the things are in existence at the time of the demise. 1968-69, c. 58, s. 3, *part*. Covenants in posse and in esse

**91.**—(1) Subject to subsection 3, a tenant has the right to assign, sublet or otherwise part with possession of the rented premises. Right to assign or sublet

(2) Subsection 1 does not apply to a tenant of premises administered by or for the Government of Canada or Ontario or a municipality, or any agency thereof, developed and financed under the *National Housing Act, 1954* (Canada). Exception 1953-54, c. 23 (Can.)

(3) A tenancy agreement may provide that the right of a tenant to assign, sublet or otherwise part with possession of the rented premises is subject to the consent of the landlord, and, where it is so provided, such consent shall not be arbitrarily or unreasonably withheld. Consent

(4) A landlord shall not make any charge for giving his consent referred to in subsection 3, except his reasonable expenses incurred thereby. Charges

(5) A landlord or tenant may apply by summary application to a judge of the county or district court of the county or district in which the premises are situate who may determine any question arising under subsection 3 or 4. 1968-69, c. 58, s. 3, *part*. Determination of disputes

**92.** Where a tenant abandons the premises in breach of the tenancy agreement, the landlord's right to damages is subject to the same obligation to mitigate his damages as applies generally under the rule of law relating to breaches of contract. 1968-69, c. 58, s. 3, *part*. Mitigation of damages

**93.** Except in cases of emergency and except where the landlord has a right to show the premises to prospective tenants at reasonable hours after notice of termination of the tenancy has been given, the landlord shall not exercise a right to enter the rented premises unless he has first given written notice to the tenant at least twenty-four hours before the time of entry, and the time of entry shall be during daylight hours and specified in the notice, except that nothing in this section shall be construed to prohibit entry with the consent of the tenant given at the time of entry. 1968-69, c. 58, s. 3, *part*. Privacy

Entry by  
canvassers

**94.** No landlord or servant or agent of a landlord shall restrict reasonable access to the rented premises by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly, any office in a municipal government or a school board for the purpose of canvassing or distributing election material. 1968-69, c. 58, s. 3, *part*.

Alteration  
of locks

**95.** A landlord or tenant shall not, during occupancy of the rented premises by the tenant, alter or cause to be altered the locking system on any door giving entry to the rented premises except by mutual consent. 1968-69, c. 58, s. 3, *part*.

Landlord's  
responsi-  
bility to  
repair

**96.**—(1) A landlord is responsible for providing and maintaining the rented premises in a good state of repair and fit for habitation during the tenancy and for complying with health and safety standards, including any housing standards required by law, and notwithstanding that any state of non-repair existed to the knowledge of the tenant before the tenancy agreement was entered into.

Tenant's  
responsi-  
bility for  
cleanliness  
and damage

(2) The tenant is responsible for ordinary cleanliness of the rented premises and for the repair of damage caused by his wilful or negligent conduct or that of persons who are permitted on the premises by him.

Enforcement

(3) The obligations imposed under this section may be enforced by summary application to a judge of the county or district court of the county or district in which the premises are situate and the judge may,

- (a) terminate the tenancy subject to such relief against forfeiture as the judge sees fit;
- (b) authorize any repair that has been or is to be made and order the cost thereof to be paid by the person responsible to make the repair, such cost to be recovered by due process or by set-off;
- (c) make such further or other order as the judge considers appropriate. 1968-69, c. 58, s. 3, *part*.

Application

(4) This section applies to tenancies under tenancy agreements entered into or renewed on or after the 1st day of January, 1970 and to periodic tenancies on the first anniversary date of such tenancies on or after the 1st day of January, 1970 and in all other cases the law applies as it existed immediately before the 1st day of January, 1970. 1968-69, c. 58, s. 3, *part, amended*.

Relief  
against  
acceleration  
clauses

**97.**—(1) Where default has occurred in the payment of rent due under a tenancy agreement or in the observance of any obligation of the tenant and under the terms of the tenancy agreement, by reason of such default, the whole or any part of remaining rent for the term of the tenancy has become due and

payable, at any time before or after the commencement of an action for the enforcement of the rights of the landlord and before judgment, the tenant may,

- (a) pay the rent due, exclusive of the rent not payable by reason merely of lapse of time; or
- (b) perform the obligation, and pay any expenses necessarily incurred by the landlord,

and thereupon he is relieved from the consequences of the default.

(2) A landlord or tenant may apply by summary application to a judge of the county or district court of the county or district in which the premises are situate who may determine any question as to whether a tenant is entitled to relief under this section. 1968-69, c. 58, s. 3, *part*. Disputes

#### TERMINATION OF TENANCIES

**98.**—(1) A weekly or monthly or year to year tenancy may be terminated by either the landlord or the tenant upon notice to the other and, unless otherwise agreed upon, the notice, Notice of termination of tenancy

- (a) shall meet the requirements of section 99;
- (b) shall be given in the manner prescribed by section 100; and
- (c) shall be given in sufficient time to give the period of notice required by section 101, 102 or 103, as the case may be.

(2) Any other kind of tenancy determinable on notice may, unless otherwise agreed upon, be terminated as provided by sections 99 and 100. 1968-69, c. 58, s. 3, *part*. Idem

**99.**—(1) A landlord or a tenant may give notice to terminate either orally or in writing, but a notice by a landlord to a tenant is not enforceable under section 106 unless it is in writing. Form of notice

(2) A notice in writing, Content of notice

- (a) shall be signed by the person giving the notice, or his agent;
- (b) shall identify the premises in respect of which the notice is given; and
- (c) shall state the date on which the tenancy is to terminate or that the tenancy is to terminate on the last day of the period of the tenancy next following the giving of the notice.

(3) A notice may state both, Idem

- (a) the date on which the tenancy is to terminate; and



- (b) that the tenancy is to terminate on the last day of the period of the tenancy next following the giving of the notice,

and if it does state both and the date on which the tenancy is to terminate is incorrectly stated, the notice is nevertheless effective to terminate the tenancy on the last day of the period of the tenancy next following the giving of the notice.

Forms 4  
and 5

(4) A notice need not be in any particular form, but a notice by a landlord to a tenant may be in Form 4 and a notice by a tenant to a landlord may be in Form 5. 1968-69, c. 58, s. 3, *part*.

Manner of  
giving  
notice

**100.**—(1) Notice to terminate shall be given in the manner prescribed in section 109.

Substitu-  
tional  
service

(2) Where the tenant cannot be given notice by reason of his absence from the premises, or by reason of his evading service, the notice may be given to the tenant,

- (a) by giving it to any adult person who apparently resides with the tenant; or
- (b) by posting it up in a conspicuous place upon some part of the premises; or
- (c) by sending it by registered mail to the tenant at the address where he resides. 1968-69, c. 58, s. 3, *part*.

Notice to  
terminate  
weekly  
tenancy

**101.**—(1) A notice to terminate a weekly tenancy shall be given on or before the last day of one week of the tenancy to be effective on the last day of the following week of the tenancy.

Idem

(2) For the purposes of this section, “week of the tenancy” means the weekly period on which the tenancy is based and not necessarily a calendar week and, unless otherwise specifically agreed upon, the week shall be deemed to begin on the day upon which rent is payable. 1968-69, c. 58, s. 3, *part*.

Notice to  
terminate  
monthly  
tenancy

**102.**—(1) A notice to terminate a monthly tenancy shall be given on or before the last day of one month of the tenancy to be effective on the last day of the following month of the tenancy.

Idem

(2) For the purposes of this section, “month of the tenancy” means the monthly period on which the tenancy is based and not necessarily a calendar month and, unless otherwise specifically agreed upon, the month shall be deemed to begin on the day upon which rent is payable. 1968-69, c. 58, s. 3, *part*.

Notice to  
terminate  
yearly  
tenancy

**103.**—(1) A notice to terminate a year to year tenancy shall be given on or before the sixtieth day before the last day of any year of the tenancy to be effective on the last day of that year of the tenancy.

(2) For the purposes of this section, “year of the tenancy” Idem means the yearly period on which the tenancy is based and not necessarily a calendar year, and unless otherwise agreed upon, the year shall be deemed to begin on the day, or the anniversary of the day, on which the tenant first became entitled to possession. 1968-69, c. 58, s. 3, *part*.

**104.** Where a landlord rents more than one residential premises in the same building and retains possession of part for use of all tenants in common, the landlord shall post up conspicuously and maintain posted a copy of sections 98 to 103 and section 109, together with the legal name of the landlord and his address for service, and any proceeding taken by or on behalf of a tenant may be commenced against the landlord in the name so posted. 1968-69, c. 58, s. 3, *part*. Posting up notice provisions

**105.**—(1) A landlord is entitled to compensation for the use and occupation of premises after the tenancy has been terminated by notice. Compensation when premises not vacated

(2) The acceptance by a landlord of arrears of rent or compensation for use or occupation of the premises after notice of termination of the tenancy has been given does not operate as a waiver of the notice or as a reinstatement of the tenancy or as the creation of a new tenancy unless the parties so agree. Effect of payment by overholding tenant where tenancy terminated on notice

(3) The burden of proof that the notice has been waived or the tenancy has been reinstated or a new tenancy created is upon the person so claiming. Burden of proof

(4) A landlord’s claim for arrears of rent or compensation for use and occupation by a tenant after the expiration or termination of the tenancy may be enforced by action or on summary application as provided in section 106. 1968-69, c. 58, s. 3, *part*. Enforcement of claim

**106.**—(1) A landlord or tenant may apply by summary application to a judge of the county or district court of the county or district in which the premises are situate for an order declaring that the tenancy agreement is terminated. Application for order declaring tenancy agreement terminated

(2) An application shall state the grounds upon which the tenancy agreement is alleged to be terminated. Contents of application

(3) The judge shall in writing appoint a time and place for the hearing and the applicant shall serve a notice of the appointment and a copy of the application upon the other parties to the tenancy agreement at least fifteen days before the day appointed. Appointment

(4) After a hearing, the judge shall determine the question of whether the tenancy agreement is terminated in whole or in part and may make an order for a writ of possession or such other relief as may be equitable in the circumstances. 1968-69, c. 58, s. 3, *part*. Order

Recovery of  
possession

**107.**—(1) Unless a tenant has vacated or abandoned rented premises, the landlord shall not regain possession of the premises on the grounds he is entitled to possession except under the authority of a writ of possession obtained under section 106 or under Part III.

Defences to  
proceedings  
for  
possession

(2) In any proceeding by a landlord for possession, if it appears to the judge that,

(a) the notice to quit was given because of the tenant's complaint to any governmental authority of the landlord's violation of any statute or municipal by-law dealing with health or safety standards, including any housing standard law; or

(b) the notice to quit was given because of the tenant's attempt to secure or enforce his legal rights,

the judge may refuse to grant an order or writ for possession and may declare the notice to quit invalid and the notice to quit shall be deemed not to have been given. 1968-69, c. 58, s. 3, *part*.

Penalties

**108.**—(1) Any person who knowingly contravenes section 84, 85, 94, 95 or 107 is guilty of an offence and on summary conviction is liable to a fine not exceeding \$1,000.

Order for  
payment of  
security  
deposit

(2) Where a landlord is convicted of the offence of contravening section 84 or 85, the provincial judge making the conviction may order the landlord to pay to the tenant the security deposit or any part thereof that is unpaid. 1968-69, c. 58, s. 3, *part*.

Service of  
notices, etc.

**109.**—(1) Except as otherwise provided in this Part,

(a) any notice, process or document required or permitted to be delivered or given by a tenant to a landlord is sufficiently given or delivered if delivered personally to the landlord or his agent or sent by ordinary mail addressed to the landlord at the address posted under section 104;

(b) any notice, process or document required or permitted to be delivered or given by a landlord to a tenant shall be given or delivered personally to the tenant.

Idem

(2) Where a document is given or delivered by mail, it shall be deemed to have been given or delivered on the third day after the date of mailing.

Exception

(3) Notwithstanding subsections 1 and 2, a judge may order any other method of service in respect of any matter before him. 1968-69, c. 58, s. 3, *part*.

LANDLORD AND TENANT ADVISORY BUREAU

**110.**—(1) In this section, “municipality” means a local municipality and includes a metropolitan municipality and a regional municipality but does not include an area municipality thereof.

Municipality defined

(2) The council of a municipality may by by-law establish a Landlord and Tenant Advisory Bureau.

By-laws to establish Landlord and Tenant Advisory Bureau

(3) The functions of a Landlord and Tenant Advisory Bureau are,

Functions of Bureau

- (a) to advise landlords and tenants in tenancy matters;
  - (b) to receive complaints and seek to mediate disputes between landlords and tenants;
  - (c) to disseminate information for the purpose of educating and advising landlords and tenants concerning rental practices, rights and remedies; and
  - (d) to receive and investigate complaints of conduct in contravention of legislation governing tenancies.
- 1968-69, c. 58, s. 3, *part.*



## FORM 1

(Section 34 (1) )

## NOTICE TO TENANT

Take notice that I claim \$. . . . . for rent due to me in respect of the premises that you hold as my tenant, namely (*here briefly describe them*); and unless the said rent is paid, I demand from you immediate possession of the said premises; and I am ready to leave in your possession such of your goods and chattels as in that case only you are entitled to claim exemption for.

Take notice further, that if you neither pay the said rent nor give me possession of the said premises within three days after the service of this notice, I am by *The Landlord and Tenant Act* entitled to seize and sell, and I intend to seize and sell, all your goods and chattels, or such part thereof as may be necessary for the payment of the said rent and costs.

Dated this . . . . . day of . . . . ., 19 . . . .

(Landlord).

To . . . . . (*tenant*).

R.S.O. 1960, c. 206, Form 1.

## FORM 2

(Section 35 (2) )

## NOTICE TO LANDLORD

Take notice that under *The Landlord and Tenant Act* I wish to set off against rent due by me to you the debt that you owe to me on your promissory note for . . . . . dated . . . . .  
(*or as the case may be*).

Dated this . . . . . day of . . . . ., 19 . . . .

(Tenant).

R.S.O. 1960, c. 206, Form 2.

FORM 3

(Section 78 (1) )

WRIT OF POSSESSION

ONTARIO,

To Wit,

Elizabeth the Second, by the Grace of God, of the United Kingdom, Canada and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

[L.S.]

To the Sheriff of the.....

Greeting:

Whereas .....  
.....Judge of the..... Court  
of....., by his order dated the.....  
day of....., 19....., made under *The  
Landlord and Tenant Act*, on the complaint of.....  
.....against....., adjudged  
that..... was entitled to the possession  
of.....  
with the appurtenances in your bailiwick, and that a Writ should issue out of Our  
said Court accordingly (*if costs are awarded add* and also ordered and directed that  
the said..... should pay the  
costs of the proceedings had under the said Act, which have been taxed at the sum  
of.....).

THEREFORE, WE COMMAND YOU that without delay you cause the said  
..... to have possession of the said land  
and premises, with the appurtenances (*if costs are awarded add* and We also  
command you that of the goods and chattels and lands and tenements of the  
said..... in your bailiwick,  
you cause to be made..... being the said  
costs so taxed and have that money in Our said Court immediately after the  
execution hereof, to be rendered to the said.....).

And in what manner you have  
executed this Writ make appear to Our said Court immediately after the execution  
hereof, and have there then this Writ.

Witness,....., Judge of Our Said  
Court at....., this..... day  
of....., 19.....

Clerk.

Issued from the office of the Clerk of the County (or District) Court of  
.....

Clerk.

FORM 4

NOTICE TO TENANT

To .....  
(Name of Tenant)

I hereby give you notice to deliver up possession of the premises

.....  
(identify the premises)

which you hold of me as tenant, on the ..... day of .....  
next, or on the last day of the period of your tenancy next following the giving of  
this notice.

Dated this ..... day of ....., 19.....

.....  
(Landlord)

1968-69, c. 58, s. 4, part.

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FORM 5

NOTICE TO LANDLORD

To .....  
(Name of Landlord)

I hereby give you notice that I am giving up possession of the premises

.....  
(identify the premises)

which I hold of you as tenant, on the ..... day of .....  
next, or on the last day of the period of my tenancy next following the giving of this  
notice.

Dated this ..... day of ....., 19.....

.....  
(Tenant)

1968-69, c. 58, s. 4, part.

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## CHAPTER 237

## The Law Enforcement Compensation Act

**1.** In this Act,Interpre-  
tation

- (a) “Board” means the Law Enforcement Compensation Board;
- (b) “dependant”, in respect of a deceased victim, means such of the relatives of the victim as were wholly or partially dependent upon his income at the time of his death and includes a child of the victim born after his death;
- (c) “injury” means actual bodily harm and includes mental or nervous shock, and “injured” has a corresponding meaning;
- (d) “peace officer” means a peace officer as defined in the *Criminal Code* (Canada);
- (e) “relative”, in respect of a victim or offender, means his or her spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister or spouse’s parent;
- (f) “victim” means a person injured or killed in the circumstances set out in subsection 1 of section 3. 1967, c. 45, s. 1; 1968-69, c. 59, s. 1.

1953-54,  
c. 51 (Can.)

**2.—**(1) The Law Enforcement Compensation Board is continued and shall be composed of not fewer than three and not more than five members who shall be appointed by the Lieutenant Governor in Council, one of whom shall be appointed as chairman.

Law En-  
forcement  
Compensa-  
tion Board  
continued

(2) Such officers and employees of the Board as are considered necessary shall be appointed under *The Public Service Act*.

Officers and  
employees  
R.S.O. 1970,  
c. 386

(3) Two members of the Board constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board.

Quorum

(4) The Board is a corporation to which *The Corporations Act* does not apply. 1967, c. 45, s. 2, *amended*.

Board a  
corporation  
R.S.O. 1970,  
c. 89

**3.—**(1) Where any person is injured or killed by any act or omission of any other person occurring in or resulting directly from,

Injuries  
compensable



R.S.O. 1970,  
c. 202

- (a) the commission of an offence against any statute of Canada or Ontario, not including an offence involving the use or operation of a motor vehicle as defined in *The Highway Traffic Act* but including assault by means of such motor vehicle;
- (b) lawfully arresting or attempting to arrest an offender or suspected offender, or assisting a peace officer therein;
- (c) preventing or attempting to prevent the commission of a crime or suspected crime, or assisting a peace officer therein,

the Board may, on application therefor and after a hearing, make an order in its discretion exercised in accordance with this Act for the payment of compensation and the decision of the Board is final and conclusive for all purposes. 1968-69, c. 59, s. 2.

Persons  
compensable

(2) An application may be made by and compensation may be paid to,

- (a) the victim;
- (b) a person who is responsible for the maintenance of the victim and who suffers pecuniary loss or expenses as a result of the injury;
- (c) where the death of the victim has resulted, the victim's dependants or any of them. 1967, c. 45, s. 3 (2).

Compensa-  
tion

**4.—**(1) Compensation may be awarded by the Board for,

- (a) expenses actually and reasonably incurred as a result of the victim's injury or death;
- (b) pecuniary loss to the victim as a result of total or partial incapacity for work;
- (c) pecuniary loss to dependants as a result of the victim's death;
- (d) pain and suffering;
- (e) other pecuniary loss resulting from the victim's injury and any expense that, in the opinion of the Board, it is reasonable to incur.

Exception  
for relatives  
of offender

(2) Clause *d* of subsection 1 does not apply in respect of compensation awarded to a relative of the offender or a member of the offender's household. 1967, c. 45, s. 4.

Considera-  
tions of  
Board

**5.** In determining whether to make an order for compensation and the amount thereof, the Board may have regard to all such circumstances as it considers relevant, including any behaviour of the victim that directly or indirectly contributed to his injury or death. 1967, c. 45, s. 5.

**6.** An application for compensation shall be made within one year after the date of the death or injury but the Board may, in its discretion, extend the time for such further period as it considers just. 1967, c. 45, s. 6. Limitation period for application

**7.—(1)** An order for compensation may be made whether or not any person is prosecuted for or convicted of the offence giving rise to the injury or death but the Board may, of its own motion or upon the application of the Minister of Justice and Attorney General, adjourn its proceedings pending the outcome of a prosecution or intended prosecution. Compensation not dependent on a conviction

**(2)** An order for compensation does not affect the right of any person to recover from any other person by civil proceedings lawful damages in respect of the injury or death, but, where the Board has granted an order, the Board is subrogated to all the rights of the person in whose favour the order is granted in respect of the injury or death to the extent of the amount awarded in the order. Board subrogated

**(3)** Any money recovered by the Board under subsection 2 shall be paid into the Consolidated Revenue Fund. 1967, c. 45, s. 7. Disposition of money recovered

**8.** Where the applicant for compensation is a victim, he shall submit to such medical or physical examination as the Board may require. 1967, c. 45, s. 8. Medical examination

**9.—(1)** The Board may order compensation to be paid in a lump sum or in periodic payments as the Board thinks fit. Form of compensation

**(2)** Compensation ordered to be paid shall be paid out of the moneys appropriated therefor by the Legislature. 1967, c. 45, s. 9. Payment of compensation

**10.—(1)** The amount ordered by the Board to be paid in respect of any one occurrence shall not exceed, Maximum payments

(a) in the case of lump sum payments, a total of \$10,000; or

(b) in the case of periodic payments, a total of \$500 per month.

**(2)** Where the total amounts of the claims as allowed by the Board in respect of any one occurrence exceed the amount prescribed by subsection 1, the amount prescribed shall be distributed *pro rata* in proportion to the amounts of the claims. 1967, c. 45, s. 10. Pro rata distribution

**(3)** Subsections 1 and 2 do not apply where the victim's injury was incurred while assisting a peace officer. 1968-69, c. 59, s. 3. Application of subss. 1 and 2

**11.—(1)** Where an application is made to the Board, the Board shall fix a time and place for the hearing of the application and shall cause notice thereof to be given to the applicant, the Procedures on application

offender where possible and to any other person appearing to the Board to have an interest in the application.

Public  
hearings

(2) Every hearing of the Board shall be held in public.

Power to  
take sworn  
evidence  
and  
summon  
witnesses

(3) For the purposes of a hearing under this Act, the Board,

- (a) may administer oaths to witnesses and require them to give evidence under oath; and
- (b) may require to have issued out of the Supreme Court a writ of subpoena *ad testificandum* or a writ of subpoena *duces tecum*, which the court may issue on praecipe, but no person shall be compelled under any such writ to produce any document that he would not be compellable to produce on the trial of an action.

Right to  
counsel

(4) Any person appearing at a hearing of the Board is entitled to be represented by counsel.

Reasons

(5) The Board shall give written reasons for its decisions. 1967, c. 45, s. 11.

Publication  
of evidence

**12.**—(1) The Board may make an order prohibiting the publication of any report or account of the whole or any part of the evidence at a hearing where the Board considers it necessary, but in making an order under this subsection the Board shall have regard to the desirability of permitting the public to be informed of the principles and nature of each case.

Offence

(2) Any person who publishes a report or account of any evidence at a hearing contrary to an order of the Board under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(3) Where a corporation is convicted of an offence under subsection 2, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. 1967, c. 45, s. 12.

Variation  
of orders

**13.** The Board may, at any time, of its own motion or on the application of the offender or any person in whose favour an order is made, review the order and revoke, confirm or vary the order as the Board considers just in the circumstances. 1967, c. 45, s. 13.

Regulations

**14.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing rules of procedure in respect of applications to the Board and proceedings of the Board;

- (b) requiring the payment of fees in respect of any matter in the jurisdiction of the Board, including witness fees, and prescribing the amounts thereof;
  - (c) prescribing forms for the purposes of this Act and providing for their use;
  - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- 1967, c. 45, s. 14.

**15.** This Act applies in respect of claims for compensation arising from an injury or death occurring after this Act comes into force. 1967, c. 45, s. 15.

Application  
of Act

**16.** The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1967, c. 45, s. 16.

Moneys

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CHAPTER 238

The Law Society Act

1. In this Act,

Interpre-  
tation

- (a) “bencher” means a bencher of the Society;
- (b) “Convocation” means a regular or special meeting of the benchers convened for the purpose of transacting business of the Society;
- (c) “member” means a member of the Society and includes a life member but does not include an honorary member or a student member;
- (d) “regulations” means the regulations made under this Act;
- (e) “rules” means the rules made under this Act;
- (f) “Secretary” means the Secretary of the Society;
- (g) “Society” means The Law Society of Upper Canada;
- (h) “Treasurer” means the Treasurer of the Society. 1970, c. 19, s. 1.

THE SOCIETY

2. The Law Society of Upper Canada authorized to be established by an Act of the Parliament of Upper Canada passed in the thirty-seventh year of the reign of his late Majesty George III and incorporated by an Act of the Parliament of Upper Canada passed in the second year of the reign of his late Majesty George IV is hereby continued as a corporation without share capital composed of the Treasurer, the benchers and the other members from time to time. 1970, c. 19, s. 2.

Society  
continued  
1797, c. 13  
1822, c. 5

3. A meeting of the members shall be held annually at such place and at such time as is determined from time to time in Convocation, notice of which shall be given by publication as provided by the rules. 1970, c. 19, s. 3.

Annual  
meeting

4. The permanent seat of the Society shall continue to be at Seat Osgoode Hall in the City of Toronto. 1970, c. 19, s. 4.

5.—(1) The Society may purchase, acquire, take by gift, bequest, devise, donation, or otherwise any real or personal property for its purposes, and it may hold, sell, mortgage, lease, or dispose of any of its real or personal property.

Acquisition  
and  
disposition  
of property

Trustee  
powers

(2) The Society has and may exercise all powers of trustees under the laws of Ontario.

Borrowing  
power

(3) The Society may borrow money for its purposes. 1970, c. 19, s. 5.

R.S.O. 1970,  
c. 89,  
ss. 85, 347  
not to apply

**6.**—(1) Sections 85 and 347 of *The Corporations Act* do not apply to the Society.

Conflict

(2) In the event of conflict between any provision of this Act and any provision of *The Corporations Act*, the provision of this Act prevails. 1970, c. 19, s. 6.

Treasurer

**7.** The Treasurer is the president and head of the Society. 1970, c. 19, s. 7.

Secretary

**8.** The Secretary is the chief administrative officer of the Society. 1970, c. 19, s. 8.

Liability  
of benchers,  
officers and  
employees

**9.** No action or other proceedings for damages shall be instituted against the Treasurer or any bencher, official of the Society, or person appointed in Convocation for any act done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, a regulation or a rule, or for any neglect or default in the performance or exercise in good faith of any such duty or power. 1970, c. 19, s. 9.

#### BENCHERS

Government  
of the  
Society

**10.** The benchers shall govern the affairs of the Society, including the call of persons to practise at the bar of the courts of Ontario and their admission and enrolment to practise as solicitors in Ontario. 1970, c. 19, s. 10.

Honorary  
benchers

**11.** Every person,

(a) who is an honorary bencher on the 1st day of October, 1970; or

(b) who after that day is made an honorary bencher,

is an honorary bencher but as such has only the rights and privileges prescribed by the rules. 1970, c. 19, s. 11.

*Ex officio*  
benchers

**12.**—(1) The following, if and while they are members, are *ex officio* benchers:

1. The Minister of Justice and Attorney General for Canada.

2. The Solicitor General for Canada.

3. The Minister of Justice and Attorney General for Ontario and every person who has held that office or the office of Attorney General for Ontario.
4. Every retired judge of the Supreme Court of Canada or of the Exchequer Court of Canada who was at the time of his appointment a member of the bar of Ontario and who became an *ex officio* bencher under paragraph 5 of section 5 of *The Law Society Act* as that paragraph was before it was repealed in 1964. R.S.O. 1960,  
c. 207
5. Every retired judge of the Supreme Court of Ontario who became an *ex officio* bencher under paragraph 6 of section 5 of *The Law Society Act* as that paragraph was before it was repealed in 1964.
6. Every person who was elected a bencher at four quinquennial elections and became an *ex officio* bencher under paragraph 4 of section 5 of *The Law Society Act* as that paragraph was before it was re-enacted in 1964.
7. Every person who was elected a bencher at three quinquennial elections and served as a bencher for fifteen years and became an *ex officio* bencher under paragraph 4 of section 5 of *The Law Society Act* as re-enacted in 1964.
8. Every person who is elected a bencher at three elections and serves as a bencher for fifteen years before the election in 1975.
9. Every person who is elected a bencher at four elections and who serves as a bencher for sixteen years.

(2) An *ex officio* bencher under subsection 1 has all the rights and privileges prescribed by the rules, except that after the election of benchers in 1971 he no longer shall have the right to vote in Convocation or in a committee. Rights and  
privileges

(3) Notwithstanding subsection 2, an *ex officio* bencher under paragraph 3 of subsection 1 has the right to vote in Convocation and in a committee. Attorney  
General  
has vote

(4) An elected bencher who becomes qualified as an *ex officio* bencher under subsection 1 may, if he chooses, continue as an elected bencher and is eligible to be re-elected in any subsequent election of benchers without prejudice to his right to become an *ex officio* bencher at any time so long as he is still an elected bencher. 1970, c. 19, s. 12. Option

**13.**—(1) The Minister of Justice and Attorney General for Ontario shall serve as the guardian of the public interest in all matters within the scope of this Act or having to do with the legal profession in any way, and for this purpose he may at any time Minister of  
Justice,  
guardian of  
the public  
interest



require the production of any document, paper, record or thing pertaining to the affairs of the Society.

## Admissions

(2) No admission of any person in any document, paper, record or thing produced under subsection 1 is admissible in evidence against that person in any proceedings other than disciplinary proceedings under this Act.

Protection  
of Minister

(3) No person who is or has been the Minister of Justice and Attorney General for Ontario is subject to any disciplinary proceedings of the Society or to any penalty imposed in Convocation or in a committee of benchers for anything done by him while exercising the functions of such office. 1970, c. 19, s. 13.

Treasurers  
and former  
Treasurers  
are *ex officio*  
benchers

**14.**—(1) Every member who has been or is elected to the office of Treasurer is an *ex officio* bencher with all the rights and privileges of an elected bencher.

Rights and  
privileges

(2) Every *ex officio* bencher under subsection 1 shall, upon attaining the age of seventy-five years, continue to be an *ex officio* bencher with all the rights and privileges prescribed by the rules, except that he no longer shall have the right to vote in Convocation or in a committee. 1970, c. 19, s. 14.

Election of  
benchers

**15.**—(1) An election of benchers shall be held in 1971 and in every fourth year thereafter at each of which forty benchers shall be elected by secret ballot from and by the members in accordance with this Act and the rules.

Area repre-  
sentation

(2) Twenty of the forty benchers mentioned in subsection 1 shall be members whose addresses on the records of the Society on the last day for nominations are within The Municipality of Metropolitan Toronto as it is constituted on that day.

## Idem

(3) Twenty of the forty benchers mentioned in subsection 1 shall be members whose addresses on the records of the Society on the last day for nominations are outside The Municipality of Metropolitan Toronto as it is constituted on that day. 1970, c. 19, s. 15.

Present  
benchers  
continue

**16.** The benchers elected at the election of benchers in 1966 or thereafter shall continue in office until those elected at the election of benchers in 1971 take office. 1970, c. 19, s. 16.

Who may  
vote

**17.** Every member in good standing and not in arrear to the Society for any fee or levy is an elector qualified to vote at an election of benchers. 1970, c. 19, s. 17.

Qualifica-  
tion of  
candidates

**18.** No member is eligible to be a candidate for bencher at any election who is not qualified to vote at the election. 1970, c. 19, s. 18.

**19.** Any benchers is eligible for re-election. 1970, c. 19, s. 19. Benchers may be re-elected

**20.** Any member who was qualified to vote at an election of benchers may, in accordance with the rules, petition Convocation against the election of any benchers. 1970, c. 19, s. 20. Election petitions

**21.** The elected benchers shall take office at the first regular Convocation following their election and, subject to this Act, shall hold office until their successors take office. 1970, c. 19, s. 21. Taking office

**22.—**(1) Where there is a failure to elect the requisite number of qualified benchers, the remaining benchers shall as soon as convenient supply the deficiency by electing in Convocation the requisite number of qualified members as benchers. Making up deficiency

(2) Where there is a vacancy in the requisite number of benchers, the remaining benchers shall as soon as convenient fill the vacancy by electing in Convocation a qualified member as a benchers to fill the vacancy, but where at the last quadrennial election of benchers there were more qualified candidates than benchers to be elected, the remaining benchers shall as soon as convenient fill the vacancy by electing in Convocation as a benchers the qualified member who among the defeated candidates at such election received the greatest number of votes. Filling of vacancy

(3) The benchers elected under this section shall, subject to this Act, hold office until their successors take office. 1970, c. 19, s. 22. Term of office

**23.** The benchers may remove from office any elected benchers who fails to attend six consecutive regular Convocations. 1970, c. 19, s. 23. Removal for non-attendance

**24.—**(1) Except as provided by subsection 2, ten benchers present and entitled to vote in Convocation constitute a quorum for the transaction of business. Quorum

(2) No disciplinary matter shall be dealt with in Convocation unless fifteen or more benchers are present and entitled to vote. 1970, c. 19, s. 24. Idem, disciplinary matters

**25.—**(1) The benchers shall annually at the regular Convocation in the month of May, or at such other time as the benchers may fix, elect one of their number as Treasurer. Election of Treasurer

(2) The Treasurer is eligible for re-election. 1970, c. 19, s. 25. Treasurer eligible for re-election

## LAW SOCIETY COUNCIL

Law Society  
Council,  
duties

**26.**—(1) There shall be a body known as the “Law Society Council” to consider the manner in which the members of the Society are discharging their obligations to the public and generally matters affecting the legal profession as a whole.

Composition

(2) The Law Society Council shall be composed of,

- (a) the Treasurer;
- (b) the chairman and the vice-chairman of each standing committee;
- (c) the vice-president for Ontario of the Canadian Bar Association;
- (d) the president of each county or district law association or his nominee, being a member of his association;
- (e) one member who is a full-time teacher at a law school in Ontario approved by the Society, to be appointed annually by the faculty of the law school;
- (f) two student members elected annually by the student members attending the teaching period of the Bar Admission Course;
- (g) three members who have been members of the Society for not more than ten years appointed by the annual meeting of the Ontario Section of the Canadian Bar Association; and
- (h) nine persons, not being members of the Society, appointed by the Lieutenant Governor in Council for such terms as he sees fit.

Meetings  
and report

(3) The Council shall meet at least twice a year and shall report after each meeting to the Lieutenant Governor in Council and to Convocation.

Chairman

(4) The first order of business at the first meeting of the Council in any year is to elect a chairman.

Rules

(5) The Council may make such rules, procedural or otherwise, as it considers appropriate for the proper conduct of its affairs.

Cost

(6) The administrative cost and all expenses of the Council shall be borne and paid by the Society.

Half-yearly  
report

(7) The Secretary shall send to the Council as of the last days of June and December in each year a statement containing, with respect to the immediately preceding six-month period, the names and addresses of the persons whose applications for admission to the Society as members or student members have been refused and giving, in each case, the reason for the refusal, together with such further information and particulars with respect to such matters as the Council may require. 1970, c. 19, s. 26.

ADMISSION OF MEMBERS

**27.**—(1) Every application for admission to the Society shall be on the prescribed form and be accompanied by the prescribed fees. Form of applications

(2) An applicant for admission to the Society shall be of good character. Good character

(3) No applicant for admission to the Society who has met all admission requirements shall be refused admission. Where no refusal

(4) No application for admission to the Society shall be refused until the applicant has been given an opportunity to appear in person before a committee of benchers. Appearance before refusal

(5) Where an applicant for admission to the Society is refused admission, he is entitled to a statement of the reasons for the refusal. Statement of reasons

(6) Where an application for admission to the Society has been refused, another application based on new evidence may be made at any time. 1970, c. 19, s. 27. Subsequent applications

CLASSES OF MEMBERS

**28.** Subject to sections 30, 31, 32, 34, 35, 36 and 38,

(a) the persons,

(i) who are honorary members of the Society on the 1st day of October, 1970, or

(ii) who after that day are made honorary members of the Society,

are honorary members with only the rights and privileges prescribed by the rules;

(b) the persons, being Canadian citizens or other British subjects, life members

(i) who are honorary life members on the 1st day of October, 1970, or

(ii) who after that day become life members,

are life members with the rights and privileges of members, and such additional rights and privileges as are prescribed by the rules;

(c) the persons, being Canadian citizens or other British subjects, members

(i) who are members on the 1st day of October, 1970, or

(ii) who after that day successfully complete the Bar Admission Course and are called to the bar and admitted and enrolled as solicitors, or

Form of applications

Good character

Where no refusal

Appearance before refusal

Statement of reasons

Subsequent applications

Classes of members  
honorary members

life members

members



(iii) who after that day transfer from a jurisdiction outside Ontario and are called to the bar and admitted and enrolled as solicitors,

are members and entitled to practise law in Ontario as barristers and solicitors;

student  
members

(d) the persons,

(i) who are students-at-law in the Bar Admission Course on the 1st day of October, 1970, or

(ii) who after that day become students-at-law in the Bar Admission Course,

are student members with the rights and privileges prescribed by the rules. 1970, c. 19, s. 28.

Members  
are officers  
of the  
courts

**29.** Every member is an officer of every court of record in Ontario. 1970, c. 19, s. 29.

Resignation

**30.**—(1) A member or student member may make application to resign from the Society, and Convocation may accept the resignation of such member or student member whereupon all his rights and privileges as a member or student member, as the case may be, cease.

Re-  
admission

(2) Any former member or student member may make application for readmission as a member or student member, as the case may be, and Convocation may readmit such former member or student member. 1970, c. 19, s. 30.

Effect of  
appoint-  
ment to  
Bench

**31.** The membership of any member or former member who has assumed office or hereafter assumes office as,

(a) a full-time judge under any Act of the Parliament of Canada; or

(b) a full-time judge under *The Provincial Courts Act*, or *The Small Claims Courts Act*; or

(c) the Senior Master or a full-time master or a full-time assistant master or a full-time local master of the Supreme Court or a full-time taxing officer,

is, while he continues in any such office, in abeyance, and, upon his ceasing to hold such office, shall be restored by his giving notice in writing to such effect to the Secretary. 1970, c. 19, s. 31.

Effect of  
losing  
Canadian  
citizenship  
Re-  
admission

**32.**—(1) When a member ceases to be a Canadian citizen or other British subject, he ceases to be a member.

(2) Any person whose membership terminated under subsection 1 may, upon again becoming a Canadian citizen or other British subject, make application for readmission as a member and Convocation may readmit him. 1970, c. 19, s. 32.

## DISCIPLINE

**33.**—(1) No disciplinary action under section 34, 35, 37 or 38 shall be taken unless, Complaint and hearing

- (a) a complaint under oath has been filed in the office of the Secretary and a copy thereof has been served on the person whose conduct is being investigated;
- (b) the person whose conduct is being investigated has been served with a notice of the time and place of the hearing; and
- (c) a committee of Convocation has heard evidence of or on behalf of the complainant and, if the persons whose conduct is being investigated appears at the hearing and so requests, has heard his evidence and any evidence on his behalf and has reached the decision that he is guilty.

(2) Any person presiding at a hearing may administer oaths to witnesses and require them to give evidence under oath. Power to take sworn evidence

(3) If the person whose conduct is being investigated fails to appear in answer to the notice at the time and place appointed, the hearing may be conducted in his absence. Failure to appear

(4) Hearings shall be held *in camera*, but if the person whose conduct is being investigated requests otherwise by a notice in writing delivered to the Secretary before the day fixed for the hearing, the committee may conduct the hearing in public or otherwise as it considers proper. Disciplinary hearings to be held *in camera*

(5) A hearing may be adjourned at any time and from time to time. Adjournments

(6) A person whose conduct is being investigated, if present in person at the hearing, has the right to be represented by counsel, to adduce evidence and to make submissions, and any such person may be compelled to attend and give evidence in the manner provided in subsection 10, but such person shall be advised of his right to object to answer any question under section 9 of *The Evidence Act* and section 5 of the *Canada Evidence Act*. Attendance of person being investigated  
R.S.O. 1970, c. 151  
R.S.C. 1952, c. 307

(7) At a hearing, the complainant and the person whose conduct is being investigated have the right to examine the witnesses called by them respectively and to cross-examine the witnesses opposed in interest, including the deponent of an affidavit or a statutory declaration submitted in evidence. Examination and cross-examination

(8) The oral evidence submitted at a hearing shall be taken down in writing or by any other method authorized by *The Evidence Act*. Hearing of evidence

(9) The rules of evidence applicable in civil proceedings are applicable at a hearing, except that an affidavit or statutory declaration of any person is admissible in evidence as *prima facie* proof of the statements made therein. Rules of evidence

Summons  
to witness

(10) The Treasurer, the chairman or a vice-chairman of a committee of Convocation, or the Secretary may, and the Secretary upon application of a person whose conduct is being investigated shall, issue a summons in the prescribed form commanding the attendance and examination of any person as a witness, and the production of any document or thing, the production of which could be compelled at the trial of an action, before the committee at the time and place mentioned in the summons and stating that failure to obey the summons will render the person liable to imprisonment on an application to the Supreme Court, but the person whose attendance is required is entitled to the like conduct money and payment for expenses and loss of time as upon attendance as a witness at a trial in the Supreme Court.

Failure of  
witness to  
appear, etc.

(11) If any person,

- (a) on being duly summoned to appear as a witness makes default in attending; or
- (b) being in attendance as a witness refuses to take an oath legally required to be taken, or to produce any document or thing in his power or control legally required to be produced by him, or to answer any question which he is legally required to answer; or
- (c) does any other thing which would, if the committee had been a court of law having power to commit for contempt, have been contempt of that court,

the person presiding at the hearing may certify the offence of that person under his hand to the Supreme Court and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any submissions that may be offered in defence, punish or take steps for the punishment of that person in the like manner as if he had been guilty of contempt of court.

Decision

(12) The decision taken after a hearing shall be in writing and shall contain or be accompanied by the reasons for the decision in which are set out the findings of fact and the conclusions of law, if any, based thereon, and a copy of the decision and the reasons therefor, together with a notice to the person whose conduct is being investigated of his right of appeal, shall be served upon him within thirty days after the date of the decision.

Service of  
documents

(13) Any document required to be served under this Act upon a person whose conduct is being investigated shall be served personally upon him or by mailing a copy thereof in a registered letter addressed to him at his last known residence or office address as shown by the records of the Society, and service shall

be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient. 1970, c. 19, s. 33.

**34.** If a member is found guilty of professional misconduct or of conduct unbecoming a barrister and solicitor after due investigation by a committee of Convocation, Convocation may by order cancel his membership in the Society by disbarring him as a barrister and striking his name off the roll of solicitors or may by order suspend his rights and privileges as a member for a period to be named or may by order reprimand him or may by order make such other disposition as it considers proper in the circumstances. 1970, c. 19, s. 34.

Disbarment, etc.,  
for  
misconduct

**35.** If a member has been found pursuant to any Act to be mentally incompetent or mentally ill, or has been found after due inquiry by a committee of Convocation incapable of practising law as a barrister and solicitor by reason of age, physical or mental illness including addiction to alcohol or drugs, or any other cause, Convocation may by order limit or suspend his rights and privileges as a member for such time and on such terms as it considers proper in the circumstances. 1970, c. 19, s. 35.

Suspension  
for  
incapacity

**36.** If a member fails to pay any fee or levy payable by him to the Society within four months after the day on which payment is due, Convocation may by order suspend his rights and privileges as a member for such time and on such terms as it considers proper in the circumstances. 1970, c. 19, s. 36.

Suspension  
for failure  
to pay  
fees

**37.** If a committee of Convocation finds that a member has been guilty of professional misconduct or conduct unbecoming a barrister and solicitor which in its opinion does not warrant disbarment, suspension or reprimand in Convocation, the committee may by order reprimand him. 1970, c. 19, s. 37.

Reprimand  
in committee  
for  
misconduct

**38.** If a student member is found after due inquiry by a committee of Convocation guilty of conduct unbecoming a student member, the committee may by order reprimand him or Convocation may by order cancel his student membership or may by order suspend his rights and privileges as a student member for a period to be named or may by order reprimand him or may by order make such other disposition as it considers proper in the circumstances. 1970, c. 19, s. 38.

Student  
members'  
misconduct

**39.—**(1) Any member who has been found guilty under section 37 or any student member who has been found guilty under section 38 and, in either case, has been ordered to be reprimanded in committee, may appeal from the order of reprimand to Convocation within fifteen days from the day upon which he is served with the order of the committee.

Appeal to  
Convocation



Procedure  
and record

(2) An appeal under this section shall be by motion, notice of which shall be served upon the Secretary, and the record shall consist of a copy of the proceedings before the committee, the evidence taken, the committee's report and all decisions, findings and orders of the committee in the matter.

Orders

(3) Upon the hearing of an appeal under this section, Convocation may vary the punishment imposed by the committee or may refer the matter or any part thereof back to a committee with such directions as it considers proper or may make such order as it considers proper in the circumstances.

Disqualifi-  
cation

(4) No benchers who sat on the committee of Convocation when the order appealed from was made shall take any part in the hearing of the appeal in Convocation.

Decision  
final

(5) Subject to section 44, the decision of Convocation under this section is final and not subject to any further appeal. 1970, c. 19, s. 39.

Expenses of  
investiga-  
tions

**40.** A person whose membership or student membership has been cancelled or whose rights and privileges as a member or student member have been suspended or who has been reprimanded may be ordered to pay the expense, or part of the expense, incurred by the Society in the investigation or hearing of any complaint in respect of which he has been found guilty. 1970, c. 19, s. 40.

Costs where  
disciplinary  
proceedings  
unwar-  
ranted

**41.** Where it appears that disciplinary proceedings against a member or student member were unwarranted, Convocation may order that such costs as it considers just be paid by the Society to the member or student member whose conduct was the subject of the proceedings. 1970, c. 19, s. 41.

Stop-orders  
on members  
bank  
accounts,  
etc.

**42.—**(1) If the Treasurer or the Secretary or the chairman or the vice-chairman of any committee of Convocation dealing with disciplinary matters has reasonable cause to believe that a member has been or may be guilty of misconduct in connection with any property in his possession or under his control, a judge of the Supreme Court may, upon an *ex parte* application by the Society, order that the property described in the order shall not be paid out or dealt with by the person or persons named in the order without the leave of a judge of the Supreme Court.

Discharge,  
etc., of  
stop-orders

(2) Any person may apply to a judge of the Supreme Court for an order varying or discharging any order made under subsection 1. 1970, c. 19, s. 42.

Appoint-  
ment of  
trustees

**43.—**(1) Where a member or former member dies, disappears or leaves Ontario or a person's membership in the Society is cancelled or his rights and privileges as a member are suspended

and, in any such event, his practice is neglected to the prejudice of any person or no provision has been made for the protection of his clients' interest, a judge of the Supreme Court may, upon an *ex parte* application by the Society, by order appoint a person as trustee, with or without bond, to take possession of any property in the possession of or under the control of such member or former member for the purpose of preserving, carrying on or winding up the practice of such member or former member.

(2) A person appointed under subsection 1 shall, in respect of Idem any trust property of such member or former member, be the trustee thereof, and he shall in respect thereof take the place of the personal representative, committee or other representative, if any, of such member or former member.

(3) Any person may apply to a judge of the Supreme Court for an order varying or discharging any order made under subsection 1. Discharge, etc., of order

(4) The judge may in any order under this section make provision for the remuneration, disbursements and indemnification of the trustee out of such moneys or otherwise as the judge may specify. 1970, c. 19, s. 43. Fees, etc., of trustee

**44.**—(1) Any person dissatisfied with a decision of Convocation made under section 30, 32 or 46, or any person against whom an order has been made under section 34, 35 or 36, or any person against whom an order, other than an order of reprimand in committee, has been made under section 38, or any person whose punishment has been ordered to be increased under subsection 3 of section 39 may appeal from the decision or order to the Court of Appeal within fifteen days from the day upon which he is served with the decision or order. Appeal to Court of Appeal

(2) Upon the request of any person desiring to appeal and upon payment of the cost thereof, the Secretary shall furnish such person with a certified copy of all proceedings, evidence, reports, orders and papers received as evidence in Convocation and any committee thereof in dealing with and disposing of the matter complained of. Certified copies of papers

(3) If the appellant fails to pay the cost of the certified copy and the cost of such additional copies of the evidence as may be reasonably required for the purposes of the appeal within fifteen days after written demand from the Secretary, the appeal shall be deemed to be abandoned. Failure to pay costs

(4) An appeal under this section shall be by motion, notice of which shall be served upon the Secretary, and the record shall consist of a copy, certified by the Secretary, of the proceedings before Convocation or any committee thereof, the evidence taken, the report of Convocation or any committee thereof and all decisions, findings and orders of Convocation or any committee thereof in the matter. Procedure and record

- Practice (5) Except as otherwise provided, appeals under this section shall be in accordance with the practice in appeals from the decision or order of a judge of the Supreme Court.
- Orders (6) Upon the hearing of an appeal under this section the Court of Appeal may make such order as the court considers proper or may refer the matter or any part thereof back to Convocation with such directions as the court considers proper.
- Costs (7) The Court of Appeal may make such order as to the costs of the appeal as the court considers proper. 1970, c. 19, s. 44.
- Effect of cancellation and suspension **45.**—(1) When a person's membership or student membership is cancelled, all his rights and privileges as a member or student member, as the case may be, cease, or, when a person's membership or student membership is suspended, the member or student member shall, during the period of suspension, possess no rights or privileges as a member or student member.
- Where appeal pending (2) Where an appeal under section 44 is pending, the decision or order appealed against shall not thereby be stayed, but an application may be made to a judge of the Court of Appeal for a stay of the decision or order pending the disposition of the appeal, and the judge may dispose of the application as he considers proper and in so doing he may impose such terms and conditions as he considers appropriate. 1970, c. 19, s. 45.
- Re-admission **46.** Where a person's membership or student membership is cancelled, he may apply to be readmitted, and Convocation, after due inquiry by a committee thereof, may readmit him as a member or student member, as the case may be. 1970, c. 19, s. 46.
- Termination of suspension **47.** Where the rights and privileges of a member or student member are suspended for a definite or indefinite period, he may apply at any time to have his rights and privileges restored, and Convocation, after due inquiry by a committee thereof, may restore his rights and privileges as a member or student member, as the case may be. 1970, c. 19, s. 47.
- Terms and conditions **48.** Upon the readmission of a person as a member or student member or upon the termination of the suspension of the rights and privileges of a member or student member or upon the reprimand of a member or student member, Convocation or a committee thereof may impose upon him such terms and conditions as it considers proper. 1970, c. 19, s. 48.
- Notice to Registrar of S.C.O. **49.** Notice of admission to membership and of any cancellation, suspension, resignation, readmission or other change in a member's status in the Society shall be given forthwith by the Secretary to the Registrar of the Supreme Court who shall keep a record thereof. 1970, c. 19, s. 49.

PROHIBITIONS AND OFFENCES

**50.**—(1) Except where otherwise provided by law, no person, other than a member whose rights and privileges are not suspended, shall act as a barrister or solicitor or hold himself out as or represent himself to be a barrister or solicitor or practise as a barrister or solicitor. Prohibition as to practice, etc.

(2) Every person who contravenes any provision of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. Offence

(3) Where a conviction has been made under subsection 2, the Society may apply to a judge of the Supreme Court by originating motion for an order enjoining the person convicted from practising as a barrister or solicitor, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court. Proceedings to enjoin person convicted from practising law

(4) Any person may apply to a judge of the Supreme Court for an order varying or discharging any order made under subsection 3. Discharge, etc., of order

3. 1970, c. 19, s. 50.

COMPENSATION FUND

**51.**—(1) The Society shall continue to maintain the fund known as “the Compensation Fund” and shall continue to hold it in trust for the purposes of this section. Compensation Fund

(2) The Compensation Fund shall be made up of, Composition of Fund

- (a) all moneys paid by members of the Society under subsection 3;
- (b) all moneys earned from the investment of moneys in the Fund;
- (c) all moneys recovered under subsection 7; and
- (d) all moneys contributed by any person.

(3) Every member, other than those of a class exempted by the rules, shall pay to the Society for the Compensation Fund such sum as is prescribed from time to time by the rules. Compensation Fund levy

(4) The Society may insure with any insurer licensed to carry on business in Ontario for such purposes and on such terms as Convocation considers expedient in relation to the Compensation Fund, and, in such event, the moneys in the Fund may be used for the payment of premiums. Insurance

(5) Convocation in its absolute discretion may make grants from the Compensation Fund in order to relieve or mitigate loss sustained by any person in consequence of dishonesty on the part of any member in connection with such member’s law practice or in connection with any trust of which he was or is a trustee, Grants



notwithstanding that after the commission of the act of dishonesty he may have died or ceased to administer his affairs or to be a member.

Conditions  
of grants

(6) No grant shall be made out of the Compensation Fund unless notice in writing of the loss is received by the Secretary within six months after the loss came to the knowledge of the person suffering the loss or within such further time, not exceeding eighteen months, as in any case may be allowed by Convocation.

Subrogation

(7) If a grant is made under this section, the Society is subrogated to the amount of the grant to any rights or remedies to which the person receiving the grant was entitled on account of the loss in respect of which the grant was made against the dishonest member or any other person, or, in the event of the death or insolvency or other disability of such member or other person, against his personal representative or other person administering his estate.

Grantees'  
rights con-  
ditionally  
limited

(8) A person to whom a grant is made under this section, or, in the event of his death or insolvency or other disability, his personal representative or other person administering his estate, has no right to receive anything from the dishonest member or his estate in respect of the loss in respect of which the grant was made until the Society has been reimbursed the full amount of the grant.

Reimburse-  
ment from  
bankrupt's  
estate

(9) Where a grant has been made under this section and the dishonest member has been declared a bankrupt, the Society is entitled to prove against the bankrupt's estate for the full amount of the claim of the person to whom the grant was made and to receive all dividends on such amount until the Society has been reimbursed the full amount of the grant.

Delegation  
of powers  
to committee  
or referee  
or both

(10) Convocation may delegate any of the powers conferred upon it by this section to a committee of Convocation and, whether or not Convocation has made any such delegation, it may appoint any member as a referee and delegate to him any of the powers conferred upon it by this section that are not delegated to a committee.

Reports

(11) Where Convocation has delegated any of its powers under this section to a committee or to a referee, the committee or referee, as the case may be, shall report as required to Convocation, but where there is a delegation to both a committee and a referee, the referee shall report as required to the committee.

Costs of  
administra-  
tion

(12) There may be paid out of the Compensation Fund the costs of its administration, including the costs of investigations and hearings and all other costs, salaries and expenses necessarily incidental to the administration of the Fund. 1970, c. 19, s. 51.

## LEGAL EDUCATION; DEGREES

**52.**—(1) The Society may maintain the Bar Admission Course and programs of continuing legal education. Bar Admission Course

(2) The Society may grant degrees in law. 1970, c. 19, s. 52. Law degrees

## INDEMNITY FOR PROFESSIONAL LIABILITY

**53.** The Society may make arrangements for its members respecting indemnity for professional liability and respecting the payment and remission of premiums in connection therewith and prescribing levies to be paid by members or any class thereof and exempting members or any class thereof from all or any part of any such levy. 1970, c. 19, s. 53. Indemnity for professional liability

## RULES

**54.**—(1) Subject to section 55, Convocation may make rules relating to the affairs of the Society and, without limiting the generality of the foregoing, Rules

1. providing procedures for the making, amendment and revocation of the rules;
2. prescribing the seal and the coat of arms of the Society;
3. providing for the execution of documents by the Society;
4. respecting the borrowing of money and the giving of security therefor;
5. fixing the financial year of the Society and providing for the audit of the accounts and transactions of the Society;
6. providing for the time and manner of and the methods and procedures for the election of benchers;
7. providing procedures for the election of the Treasurer, the filling of a vacancy in the office of Treasurer, the appointment of an acting Treasurer to act in the Treasurer's absence or inability to act, and prescribing the Treasurer's duties;
8. providing for the appointment of and prescribing the duties of the Secretary, one or more deputy secretaries and assistant secretaries and such other officers as are considered appropriate;
9. respecting Convocation;
10. providing for the establishment, composition, jurisdiction and operation of standing and other committees and delegating to any committee such of the powers and duties of Convocation as may be considered expedient;

11. governing honorary benchers, *ex officio* benchers and honorary members and prescribing their rights and privileges;
12. governing members, life members and student members, and prescribing their rights and privileges;
13. prescribing fees and levies for members and student member or any class of either of them, and providing for the payment and remission thereof and exempting any class of either of them from all or any part of such fees or levies;
14. respecting the Compensation Fund and prescribing the amount of the levy to be paid to the Society for the Fund and exempting any class of members from all or any part of such levy;
15. prescribing oaths for members and student members;
16. providing for the payment to the Society by any member of the cost of any investigation or audit of his books, records, accounts and transactions;
17. providing for and governing meetings of members or representatives of members;
18. prescribing procedures for the call to the bar of barristers and the admission and enrolment of solicitors;
19. defining and governing the employment of student members while under articles;
20. providing and governing bursaries, scholarships, medals and prizes;
21. providing for and governing extension courses, continuing legal education, and legal research;
22. governing degrees in law;
23. providing for and governing libraries;
24. providing for the occasional appearance as counsel in the courts of Ontario and before provincial judges, with the consent of the Treasurer and of the court or judge, of members of the legal profession from outside Ontario;
25. providing for the establishment, maintenance and administration of a benevolent fund for members and the dependants of deceased members;
26. prescribing forms and providing for their use, except the form of summons referred to in subsection 10 of section 33.

(2) The rules made under subsection 1 shall be interpreted as if they formed part of this Act. Interpretation of rules

(3) A copy of the rules made under subsection 1, as amended from time to time, Availability of copies of rules

- (a) shall be filed in the office of the Minister of Justice and Attorney General; and
- (b) shall be available for public inspection in the office of the Secretary. 1970, c. 19, s. 54.

#### REGULATIONS

**55.** Subject to the approval of the Lieutenant Governor in Council, Convocation may make regulations respecting any matter that is outside the scope of the rule-making powers specified in section 54 and, without limiting the generality of the foregoing, Regulations

- 1. respecting any matter ancillary to the provisions of this Act with regard to the admission, conduct and discipline of members and student members and the suspension and restoration of their rights and privileges, the cancellation of memberships and student memberships, the resignation of members, and the readmission of former members and student members;
- 2. requiring and prescribing the books, records and accounts to be kept by members and providing for the exemption from such requirements of any class of members;
- 3. requiring and providing for the examination or audit of members' books, records, accounts and transactions and the filing with the Society of reports with respect thereto;
- 4. authorizing and providing for the preparation, publication and distribution of a code of professional conduct and ethics.
- 5. respecting the reporting and publication of the decisions of the courts;
- 6. defining and governing the employment of barristers and solicitors clerks;
- 7. respecting legal education, including the Bar Admission Course;
- 8. providing for the establishment, operation and dissolution of county and district law associations and respecting grants and loans to such associations;
- 9. prescribing the form of the summons referred to in subsection 10 of section 33. 1970, c. 19, s. 55.





## CHAPTER 239

### The Legal Aid Act

#### 1. In this Act,

Interpre-  
tation

- (a) “area” means a part of Ontario designated by the regulations as an area for the purposes of this Act;
- (b) “area director” means an area director appointed under this Act;
- (c) “assessment officer” means an officer of the Department of Social and Family Services who is designated by the Minister of Social and Family Services as an assessment officer for the purposes of this Act;
- (d) “barrister and solicitor” means a member of the Law Society other than an honorary member or a student member thereof;
- (e) “certificate” means a legal aid certificate or a provisional legal aid certificate issued under this Act;
- (f) “Director” means the Director of Legal Aid appointed under this Act;
- (g) “Fund” means the Legal Aid Fund under this Act;
- (h) “Law Society” means The Law Society of Upper Canada;
- (i) “legal aid” means professional services provided under this Act and the regulations;
- (j) “person” means an individual;
- (k) “regulations” means the regulations made under this Act;
- (l) “student” means a person enrolled in the Bar Admission Course or in any law course approved by the Law Society;
- (m) “student legal aid society” means a student legal aid society established in accordance with the regulations;
- (n) “Treasurer” means the Treasurer of the Law Society. 1966, c. 80, s. 1; 1968-69, c. 60, s. 1.

2. Subject to the approval of the Minister of Justice and Attorney General, the Law Society is hereby empowered to establish and administer a legal aid plan in accordance with this Act and the regulations. 1966, c. 80, s. 2, *amended*.

Operation  
of plan

Appoint-  
ment of  
Director,  
area  
directors,  
and staff

**3.—**(1) Subject to the approval of the Minister of Justice and Attorney General, the Law Society shall,

- (a) appoint a Director of Legal Aid;
- (b) appoint an area director for each area; and
- (c) employ such other persons as it considers necessary. 1966, c. 80, s. 3 (1), *amended*.

Accommoda-  
tion, etc.

(2) The Law Society shall provide such office accommodation, furniture, equipment and supplies as it considers necessary. 1966, c. 80, s. 3 (2).

Area  
legal aid  
committees

**4.—**(1) The Law Society may appoint a legal aid committee for an area.

Composition,  
etc.

(2) Each committee shall be composed of such number of members, shall be organized, and shall perform such functions, as the regulations prescribe.

Secretary

(3) The area director shall act as secretary of the area committee. 1966, c. 80, s. 4.

Legal Aid  
Fund,  
payments in

**5.—**(1) The Law Society shall,

- (a) establish and maintain a fund to be known as the Legal Aid Fund into which shall be paid all moneys appropriated by the Legislature for the Fund, all costs awarded to recipients of legal aid, and all contributions made by recipients of legal aid who are required to pay any part of its cost; and
- (b) keep such accounts and records of the transactions of the Fund as the regulations prescribe. 1966, c. 80, s. 5 (1).

payments  
out

(2) The Law Society shall, subject to the regulations, pay out of the Fund,

- (a) its expenses attributable to the administration of this Act and the regulations, including,
  - (i) the expenses of the Treasurer and benchers and the expenses and allowances of members of committees,
  - (ii) the cost of office accommodation, furniture, equipment and supplies,
  - (iii) the salaries and expenses of the Director, area directors and other persons employed by the Law Society in the administration of this Act, and
  - (iv) the employer's contributions to any superannuation or pension plan that benefits the persons employed by the Law Society in the administration of this Act or to which such persons may contribute;

- (b) the fees and proper out-of-pocket disbursements of barristers and solicitors for legal aid;
- (c) any refund authorized by this Act of any contribution to the Fund;
- (d) the fees and proper out-of-pocket disbursements of duty counsel; and
- (e) audit fees. 1966, c. 80, s. 5 (2); 1968-69, c. 60, s. 2.

**6.** The Law Society shall, at least once in every fiscal year of the Government of Ontario at such time as the Minister of Justice and Attorney General directs, submit to him an estimate of the sum required to meet the payments out of the Fund during the next succeeding fiscal year of the Government of Ontario after making allowance for the moneys that are estimated will be received from other sources. 1966, c. 80, s. 6, *amended*. Estimates

**7.**—(1) The moneys required for the purposes of this Act shall be paid out of moneys appropriated by the Legislature for the purposes of this Act. Moneys

(2) The moneys required for the purposes of this Act shall be paid to the Law Society by the Treasurer of Ontario and Minister of Economics from time to time upon the requisition of the Law Society. 1966, c. 80, s. 7, *amended*. Payment of appropriated moneys

**8.** The Provincial Auditor shall examine and report upon the accounts and financial transactions of the Fund. 1966, c. 80, s. 8. Auditor

**9.**—(1) There shall be an advisory committee on legal aid composed of, Advisory committee

- (a) a judge of the Supreme Court;
- (b) a judge of a county or district court;
- (c) a provincial judge;
- (d) two members of the bar of Ontario;
- (e) a person holding a responsible position in the field of public welfare; and
- (f) such other persons,

as the Minister of Justice and Attorney General may appoint. 1966, c. 80, s. 9 (1); 1968-69, c. 60, s. 3, *amended*.

(2) Each member of the committee shall serve for a term of one, two or three years and may be reappointed on the expiry of the period for which he was appointed. 1966, c. 80, s. 9 (2). Term of office



Report

(3) The committee shall report at least once in every year to the Minister of Justice and Attorney General,

- (a) on the operation of the legal aid plan; and
- (b) on the annual report of the Law Society to the Minister of Justice and Attorney General mentioned in section 10. 1966, c. 80, s. 9 (3), *amended*.

Annual report

**10.** The Law Society shall make a report annually to the Minister of Justice and Attorney General for the twelve months ending on the 31st day of March of the year in which the report is made containing,

- (a) a statement of the nature and amount of legal aid given during the year;
- (b) a statement of the receipts and disbursements of the Fund during the year;
- (c) a copy of the auditor's report for the year;
- (d) general information as to the working of this Act and the regulations; and
- (e) such other information as the Minister of Justice and Attorney General requests. 1966, c. 80, s. 10, *amended*.

Idem

**11.** The Minister of Justice and Attorney General shall submit the reports mentioned in sections 9 and 10 to the Lieutenant Governor in Council and shall then lay such reports before the Assembly if it is in session or, if not, at the next ensuing session. 1966, c. 80, s. 11, *amended*.

Where legal aid may be given

**12.—(1)** Except as otherwise provided in this Act or the regulations, a certificate shall be issued to a person otherwise entitled thereto in respect of any proceeding or proposed proceeding,

- (a) in the Supreme Court;
- (b) in a county or district court;
- (c) in a surrogate court;
- (d) where the applicant is charged with an indictable offence or where an application is made for a sentence of preventive detention under Part XXI of the *Criminal Code* (Canada);
- (e) under the *Extradition Act* (Canada) or the *Fugitive Offenders Act* (Canada); and
- (f) in the Exchequer Court of Canada. 1966, c. 80, s. 12; 1968-69, c. 60, s. 4 (1).

1953-54,  
c. 51 (Can.)R.S.C. 1952,  
cc. 322, 127

Assumption

(2) For the purpose of clause *d* of subsection 1, an offence that may be tried on indictment or on summary conviction shall be deemed to be an offence triable on summary conviction until such time as the prosecution elects to proceed on indictment. 1968-69, c. 60, s. 4 (2).

**13.** Subject to the discretion of the area director, a certificate may be issued to a person otherwise entitled thereto,

Certificate,  
subject to  
discretion  
of area  
director

- (a) in any summary conviction proceeding under,
  - (i) an Act of the Parliament of Canada or of the Legislature of Ontario, or
  - (ii) a by-law of a municipality as defined in *The Department of Municipal Affairs Act* or of a metropolitan, district or regional municipality or local board thereof,

R.S.O. 1970,  
c. 118

if upon conviction there is likelihood of imprisonment or loss of means of earning a livelihood;

- (b) in any proceeding,
  - (i) in a provincial court (family division),
  - (ii) in a small claims court,
  - (iii) before a quasi-judicial or administrative board or commission otherwise than in an appeal thereto,
  - (iv) in bankruptcy subsequent to a receiving order or an authorized assignment, or
  - (v) for contempt of court; or
- (c) for drawing documents, negotiating settlements or giving legal advice wherever the subject-matter or nature thereof is properly or customarily within the scope of the professional duties of a barrister and solicitor. 1966, c. 80, s. 13; 1968-69, c. 60, s. 5, *amended*.

**14.—**(1) Subject to the approval of the area legal aid committee, a certificate may be issued to a person otherwise entitled thereto,

Certificate, with  
approval of  
area legal aid  
committee

- (a) in an appeal,
  - (i) to the Supreme Court of Canada,
  - (ii) to the Exchequer Court of Canada,
  - (iii) to the Court of Appeal for Ontario,
  - (iv) to a judge sitting in court or chambers,
  - (v) under Part XXIV of the *Criminal Code* (Canada) or *The Summary Convictions Act*,
  - (vi) to the Assessment Review Court from a municipal assessment of a property that is the residence of the applicant and by way of appeal from the decision of the Assessment Review Court thereon to the judge of a county or district court and by way of appeal from the decision of such judge to the Ontario Municipal Board, or
  - (vii) to a quasi-judicial or administrative board or Commission; or

1953-54,  
c. 51 (Can.)  
R.S.O. 1970,  
c. 450

- (b) in a proceeding by way of mandamus, quo warranto, certiorari, motion to quash, habeas corpus, or prohibition; and
- (c) in any matter referred by the area director to the area committee. 1966, c. 80, s. 14 (1); 1968-69, c. 60, s. 6, *amended*.

Procedure (2) An application for legal aid in a proceeding under this section shall be made to the area director in the prescribed form, and the area director shall submit the application and supporting material to the area legal aid committee.

Idem (3) The area legal aid committee shall consider the application and the supporting material and provide legal aid only if in the opinion of the committee the issue of a certificate is justified.

Appeal (4) An appeal lies to the Director from a decision of the area legal aid committee dismissing an application under this section.

Later applications not barred (5) Failure to apply for legal aid in the first instance does not bar an application for legal aid under this section. 1966, c. 80, s. 14 (2-5).

Where legal aid not to be given **15.** A certificate shall not be issued to a person,

- (a) in proceedings wholly or partly in respect of defamation, breach of promise of marriage, loss of service of a female in consequence of rape or seduction, alienation of affections or criminal conversation;
- (b) in relator actions;
- (c) in proceedings for the recovery of a penalty where the proceedings may be taken by any person and the penalty in whole or in part may be payable to the person instituting the proceedings; or
- (d) in proceedings relating to any election. 1966, c. 80, s. 15.

Applications **16.—**(1) Every application for legal aid shall be made in the prescribed form addressed to the area director of the area in which the applicant resides at the time the application is made or in which the occurrence for which legal aid is required took place.

Reference to assessment officer (2) Except where the legal aid for which an application is made is estimated by the area director to whom the application is made to cost not more than \$60 and he after investigation is satisfied that the applicant can pay no part thereof, every application for legal aid shall be referred by the area director to an assessment officer for a report as to whether the applicant can pay no part, some part, or the whole of the cost of the legal aid applied for.

(3) The assessment officer to whom an application is referred shall consider the income, disposable capital, indebtedness, requirements of persons dependent on the applicant, and such other circumstances as he considers to be relevant that are disclosed in the application or that he ascertains after investigation, and he shall report to the area director as to whether the applicant can pay no part, some part or the whole of the cost of the legal aid applied for and the sum, if any, the applicant is able to contribute towards the cost thereof.

Function of  
assessment  
officer

(4) Every assessment officer is in the performance of his duties under this Act a commissioner for taking affidavits within the meaning of *The Commissioners for taking Affidavits Act*.

Oaths

R.S.O. 1970,  
c. 72

(5) Subject to subsections 2 and 6 and whether or not a provisional certificate has been issued, the area director may issue a certificate only when he has received the report of the assessment officer and only where in the opinion of the area director the issue of a certificate is justified.

When  
certificate  
may issue

(6) Where in the opinion of the area director the circumstances of an application require the issue of a certificate immediately, he may issue a provisional certificate without having first received the report of the assessment officer.

Provisional  
certificate  
in excep-  
tional cases

(7) An area director in issuing a certificate or provisional certificate may impose such terms and conditions as he deems proper.

Terms and  
conditions

(8) An area director may at any time cancel any certificate or provisional certificate issued by him.

Cancellation

(9) An application for legal aid by a person not ordinarily resident in Ontario shall be disposed of by the Director.

Applications  
of non-  
residents

(10) An appeal lies to the area committee from the refusal of the area director to issue a certificate or from a cancellation of a certificate and a further appeal lies to the Director at the instance of the area director from the decision of the area committee allowing an appeal under this subsection.

Appeals

(11) The Director may issue a certificate to an appellant or respondent in a criminal appeal where the Supreme Court of Canada or the Court of Appeal for Ontario is of the opinion that it is desirable in the interests of justice that the appellant or respondent should be represented and has requested that counsel be appointed and the Director is satisfied that the appellant or respondent has not sufficient means to employ counsel.

Certificate  
upon request  
of court

**17.—**(1) The sum that a person is able to contribute towards the cost of legal aid given to him as set out in his certificate shall be paid by him and is a debt owing to the Law Society and may be recovered in any court of competent jurisdiction.

Recovery of  
contribu-  
tions



Charge on  
sum  
recovered

(2) Where a person who has been given legal aid in any matter recovers any sum in respect of such matter under a judgment, order, settlement or otherwise, the costs payable under this Act and the regulations are a charge against the sum so recovered and shall be deducted therefrom and paid into the Fund.

Charge on  
property  
recovered

(3) Where a person who has been given legal aid in any matter recovers property other than money, the Law Society has a charge against the property so recovered for the costs payable under this Act and the regulations and may enforce such charge.

Refunds

(4) A person who has been given legal aid in any matter shall be refunded any money received or recovered by the Fund for costs in excess of such costs. 1968-69, c. 60, s. 7, *part.*

Delivery  
of certificate  
of lien to  
sheriff

**18.**—(1) Where a person who owns or has any interest in any land in Ontario has agreed to contribute towards the cost of legal aid given to him as set out in his certificate, the area director who issued the certificate may deliver or transmit a certificate of lien in duplicate in the form prescribed by the regulations to the sheriff of the county or district in which the land mentioned therein is situate and, if the area director does so, he shall also deliver or transmit a copy thereof to the Director.

Endorsement  
and entry in  
index book

(2) Upon receipt of a certificate of lien under subsection 1, the sheriff shall, without fee, endorse thereon the day of the year, the month, the hour and the minute of its receipt and shall enter in an alphabetically-arranged index book kept for the purpose the name of the contributor shown on the certificate.

Lien on  
land, land  
registry  
system

(3) As soon as the endorsement and entry have been made under subsection 2 and the land mentioned in the certificate is in the land registry system, the Law Society on behalf of the Fund has a lien against the contributor's land mentioned in the certificate for an amount equal to the amount that he agreed to contribute towards the cost of the legal aid given to him as shown in the certificate, to the extent that such amount remains unpaid from time to time.

Delivery  
of copy to  
master of  
titles

(4) As soon as the endorsement and entry have been made under subsection 2 and the land mentioned in the certificate is in the land titles system, the sheriff shall deliver or transmit to the proper master of titles a copy of the certificate, and the master of titles, upon receipt of the copy of the certificate, shall, without fee, endorse thereon the day of the year, the month, the hour and the minute of its receipt and shall enter in an alphabetically-arranged index book kept for the purpose the name of the contributor shown on the certificate.

Lien on  
land,  
land titles  
system

(5) As soon as the endorsement and entry have been made under subsection 4, the Law Society on behalf of the Fund has a lien against the contributor's land mentioned in the certificate for

an amount equal to the amount that he agreed to contribute towards the cost of the legal aid given to him as shown in the certificate, to the extent that such amount remains unpaid from time to time.

(6) Where a certificate respecting execution against land is required from a sheriff or master of titles, he shall, without additional fee, include in the execution certificate a statement as to whether there is a name shown in the index book mentioned in subsection 2 or 4, as the case may be, that is the same as the name shown on the certificate. Execution certificates

(7) As soon as a contributor has discharged his obligation to contribute towards the cost of the legal aid given to him, the lien mentioned in this section is discharged, and the Director shall deliver or transmit a certificate of discharge in duplicate in the form prescribed by the regulations to the sheriff to whom the certificate of lien was delivered or transmitted. Discharge of lien

(8) Upon receipt of a certificate of discharge, the sheriff shall attach the certificate of discharge to the proper certificate of lien and strike the name of the contributor from the index book kept pursuant to subsection 2. Duty of sheriff

(9) Where the land mentioned in a certificate of discharge is under the land titles system, the sheriff, upon receipt of a certificate of discharge, shall deliver or transmit to the proper master of titles a copy of the certificate of discharge and, upon receipt of the copy of the certificate of discharge, the master of titles shall attach the copy of the certificate of discharge to the proper certificate of lien and strike the name of the contributor from the index book kept pursuant to subsection 4. 1970, c. 55, s. 1. Duty of master of titles

**19.** The costs awarded in any order heretofore or hereafter made in favour of a person to whom legal aid has been given are recoverable in the same manner and to the same extent as though awarded to a person to whom legal aid has not been given notwithstanding that no amount has been paid or is or will be payable for costs by such legally-aided person in whose favour the order is made or that costs so ordered are in excess of the total amount paid or payable for costs by such legally-aided person, and all costs paid or payable to such legally-aided person pursuant to any such order are the property of the Law Society and shall be paid into the Fund. 1970, c. 55, s. 2. Costs

**20.** Except as to the professional services provided by duty counsel, no person is entitled to legal aid in any matter unless he holds a certificate or a provisional certificate respecting such matter that has been issued to him in accordance with this Act and the regulations. 1966, c. 80, s. 19. No legal aid without certificate

Legal  
panels

**21.** There may be established in accordance with the regulations,

- (a) panels of barristers and solicitors who agree to give legal aid;
- (b) panels of barristers and solicitors who agree to provide professional services as duty counsel;
- (c) panels of barristers and solicitors who agree to give legal advice; and
- (d) student legal aid societies. 1966, c. 80, s. 20.

Payment for  
professional  
services

**22.**—(1) Every barrister and solicitor who provides professional services under this Act shall be paid out of the Fund an amount equal to three-fourths of the fees for services rendered as determined by the regulations and an amount equal to his proper out-of-pocket disbursements in the matter in which legal aid was given. 1968-69, c. 60, s. 8.

Appeals

(2) An appeal lies in accordance with the regulations to the Taxing Officer at Toronto from the certificate of a person designated for the purposes of clause 1 of subsection 1 of section 26.

Further  
appeal

(3) A further appeal lies in accordance with the regulations to a judge of the High Court from the decision of the Taxing Officer and the order of the judge disposing of the appeal is final. 1970, c. 55, s. 3.

Authorized  
payments  
only

**23.**—(1) Except in accordance with this Act and the regulations, no barrister and solicitor or student shall take or receive any payment or other benefit in respect of any professional services provided by him under this Act or the regulations. 1966, c. 80, s. 22 (1); 1968-69, c. 60, s. 9.

Members  
of the  
Assembly  
R.S.O. 1970,  
c. 240

(2) Notwithstanding *The Legislative Assembly Act*, the receipt of fees by a member of the Assembly for providing professional services under this Act does not affect his eligibility as a member of the Assembly or his right to sit or vote therein. 1966, c. 80, s. 22 (2).

Law Society  
not liable

**24.** The Law Society is not liable for any act or omission of any barrister and solicitor who provides professional services under this Act or the regulations. 1966, c. 80, s. 23.

Privileged  
communica-  
tions

**25.** All communications between the Director, an area director, a member of an area legal aid committee or an assessment officer, on the one hand, and an applicant for or a recipient of legal aid, on the other hand, are privileged for the purposes of the rules of evidence in the same manner and to the same extent as solicitor-client communications. 1968-69, c. 60, s. 10.

**26.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Law Society may make regulations respecting the establishment and administration of a legal aid plan and, without limiting the generality of the foregoing, may make regulations, Regulations

- (a) prescribing the functions of the Director, the area directors and other persons employed for the purposes of this Act;
- (b) prescribing the accounts and records that shall be kept of the transactions of the Fund;
- (c) respecting the payment out of the Fund of the expenses of the Law Society attributable to the administration of this Act and the regulations;
- (d) designating parts of Ontario as areas for the purposes of this Act;
- (e) providing for committees, their composition and organization, and prescribing their functions;
- (f) respecting the establishment and functions of the panels and societies mentioned in section 21;
- (g) respecting the participation of students in legal aid;
- (h) respecting applications for legal aid;
- (i) respecting entitlement to legal aid;
- (j) respecting certificates and provisional certificates;
- (k) respecting the fees to be paid to barristers and solicitors for professional services under this Act or the regulations;
- (l) providing for the settlement of accounts for professional services under this Act or the regulations;
- (m) respecting appeals under sections 14, 16 and 21;
- (n) prescribing oaths of office and secrecy and requiring persons, or any class thereof, engaged in the administration of this Act to take and subscribe such oaths or either of them;
- (o) respecting the non-disclosure of information furnished by or about an applicant for or recipient of legal aid;
- (p) providing for the settlement, recovery and payment into the Fund of costs and other moneys due to the Fund;
- (q) providing for the payment out of the Fund of costs awarded against a person to whom legal aid has been given;
- (r) prescribing forms and providing for their use. 1966, c. 80, s. 24 (1); 1968-69, c. 60, s. 11 (1-4); 1970, c. 55, s. 4.



Designation  
by Minister  
of Justice  
and Attorney  
General

(2) The Minister of Justice and Attorney General may designate persons for the purposes of clause *l* of subsection 1. 1966, c. 80, s. 24 (2), *amended*.

Application  
of regulation

(3) A regulation may be limited in its scope and may be retroactive in its operation. 1968-69, c. 60, s. 11 (5).

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## CHAPTER 240

## The Legislative Assembly Act

**1.** The Assembly shall be composed of as many members as is fixed from time to time by *The Representation Act*. R.S.O. 1960, c. 208, s. 1. Assembly, how composed  
R.S.O. 1970, c. 413

**2.—**(1) The Legislature shall not determine or be dissolved by the demise of the Crown, but shall continue, and may meet, convene and sit, proceed and act, in the same manner as if such demise had not happened. Demise of the Crown

(2) Nothing in this section alters or abridges the power of the Crown to prorogue or dissolve the Legislature. R.S.O. 1960, c. 208, s. 2. Power to prorogue or dissolve not affected

**3.** Every Legislature shall continue for five years from the fifty-fifth day after the date of the writs for the election and no longer, subject to being sooner dissolved by the Lieutenant Governor. R.S.O. 1960, c. 208, s. 3. Duration of Legislature

**4.** There shall be a session of the Legislature once at least in every year, so that twelve months do not intervene between the last sitting of the Legislature in one session and its first sitting in the next. R.S.O. 1960, c. 208, s. 4. Yearly session

**5.** It is not necessary for the Lieutenant Governor in proroguing the Legislature to name a day to which it is prorogued, nor to issue a formal proclamation for a meeting of the Legislature when it is not intended that the Legislature shall meet for despatch of business. R.S.O. 1960, c. 208, s. 5. Prorogation

**6.—**(1) Subject to subsection 2, the persons qualified to sit and vote as members of the Assembly are any male or female persons of the full age of twenty-one years who are British subjects by birth or by naturalization under the laws of Canada from time to time in force, resident in Ontario and not disqualified by this or any other Act from election to the Assembly. Qualification of members

(2) For the purposes of this Act, a female person shall be deemed to be a British subject, Where women deemed British subjects

- (a) if she was born a British subject and is unmarried, or is married to a British subject and has not become a subject of a foreign power; or

- (b) if she has herself been personally naturalized as a British subject and has not since become a subject of a foreign power; or
- (c) if she has become a British subject by marriage or by the naturalization as a British subject of her parent while she was a minor, and in either case has done nothing to forfeit or lose her status as a British subject, and has obtained a certificate under the signature of a judge of the Supreme Court or of a county or district court, and the seal of the court, certifying that she is of the full age of twenty-one years, has resided in Canada a sufficient length of time and is possessed of all requirements necessary to entitle her, if unmarried, to become naturalized as a British subject, and that she has taken the oath of allegiance to Her Majesty. R.S.O. 1960, c. 208, s. 6.

Senators  
and mem-  
bers of  
House of  
Commons  
disqualified

**7.**—(1) No person who on the day of nomination for election to the Assembly is a member of the Senate of Canada or of the House of Commons of Canada is eligible as a member of the Assembly or be returned as elected thereto, and if any such person receives a majority of votes at an election, the votes cast for him shall be thrown away and the returning officer shall return the person having the next greatest number of votes if he is otherwise eligible.

Vacation  
of seat

(2) If a member of the Assembly is elected and returned to the House of Commons of Canada or is appointed to the Senate of Canada, his seat in the Assembly is thereupon vacated and a writ shall issue forthwith for a new election to fill the vacancy. R.S.O. 1960, c. 208, s. 7.

Disqualifica-  
tion of  
persons  
holding  
office under  
Crown

**8.**—(1) Except as hereinafter specially provided, no person accepting or holding any office, commission or employment in the service of the Government of Canada, or of the Government of Ontario at the nomination of the Crown or at the nomination of any of the officers of the Government of Canada or of the Government of Ontario to which any salary, fee, wage, allowance, emolument or profit of any kind is attached is eligible as a member of the Assembly or shall sit or vote therein. R.S.O. 1960, c. 208, s. 8 (1).

Exceptions

(2) Nothing in this section renders ineligible as aforesaid or disqualifies from sitting and voting in the Assembly when not otherwise disqualified,

- (a) a member of the Executive Council;
- (b) an officer or other member of the regular force or reserve force of the Canadian Armed Forces;
- (c) a justice of the peace, coroner, notary public or public school supervisory officer;

- (d) any person holding any temporary employment in the service of the Government of Canada requiring special qualifications or professional skill, or a commissioner appointed under the *Inquiries Act* (Canada);

R.S.C. 1952,  
c. 154

- (e) a member of any commission, board, committee or other body holding office at the nomination of the Lieutenant Governor in Council, but this clause does not apply to members of the Ontario Labour Relations Board, The Liquor Licence Board of Ontario, the Ontario Municipal Board, the Workmen's Compensation Board, the Ontario Securities Commission, The Milk Control Board of Ontario, the Civil Service Commission, or the Board of Parole. R.S.O. 1960, c. 208, s. 8 (2), *amended*.

**9.** Except as authorized by resolution of the Assembly, no person holding or enjoying, undertaking or executing, directly or indirectly, alone or with another, by himself or by the interposition of a trustee or third person, any contract or agreement with Her Majesty, or with any public officer or department, with respect to the public service of Ontario, or under which any public money of Ontario is to be paid for any service, work, matter or thing, is eligible as a member of the Assembly or shall sit or vote therein. R.S.O. 1960, c. 208, s. 9; 1960-61, c. 45, s. 3.

Disquali-  
fication of  
public  
contractors

**10.—(1)** No person is ineligible as a member of the Assembly, Exceptions:

- (a) by reason of his being interested as an executor, administrator or trustee only, having otherwise no beneficial interest in any such contract or agreement; trustees for estates of contractors
- (b) by reason of his being a shareholder or stockholder in an incorporated company having any such contract or agreement, unless such contract or agreement is for the building of a public work of Ontario, and such building or work has not been let by tender to the lowest bidder; shareholders in contracting companies
- (c) by reason of his being a contractor for the loan of money or for securities for the payment of money to the Government of Ontario under the authority of the Legislature after public competition or respecting the purchase or payment of the public stock or debentures of Ontario on terms common to all persons; lenders of money to Government
- (d) by reason of his being the holder of a mining licence or having a contract or agreement with Her Majesty or with any public officer or department with respect to the same or to mines or mining rights, but no such person shall vote on any question affecting such licence, contract or agreement or in which he is interested by reason thereof; holders of mining licences, etc.



owners and  
persons  
interested  
in certain  
newspapers

- (e) by reason of his being proprietor of or otherwise interested in a newspaper or other periodical publication in which official advertisements are inserted which appear in other newspapers or publications in Ontario, or which is subscribed for by the Government of Ontario, or any department thereof, or by any of the public institutions of Ontario, unless such advertisements or subscriptions are paid for out of the public moneys of Ontario at rates greater than usual rates;

timber  
licensees

- (f) by reason of his holding a licence, permit or permission for cutting timber, or being interested in any such licence, permit or permission, directly or indirectly, alone or with another, by himself or by the interposition of a trustee or third person, or by reason of there being money due or payable to Her Majesty in respect of timber cut, but no such person shall vote on any question affecting such licence, permit or permission or in which he is interested by reason thereof;

fishery  
licensees

- (g) by reason of his being the holder of a fishery licence, or having a contract or agreement with Her Majesty or with any public officer or department with respect to the same or to fisheries or fishing rights, but no such person shall vote on any question affecting such licence, contract or agreement or in which he is interested by reason thereof;

certain  
sureties or  
obligors

- (h) by reason of his being a surety or contractor or liable for the payment of money for or on account of the maintenance or tuition of an inmate or pupil of any Government institution;

certain post-  
masters and  
mail carriers

- (i) by reason of his being a postmaster elsewhere than in a city, town or incorporated village, or interested in a contract for carrying the mail between two or more post offices neither of which is in a city, town or incorporated village or of his being the surety of any such postmaster or contractor;

receipt of  
compensation  
for land  
not to  
disqualify

- (j) by reason of his receiving or having received or agreed to receive compensation with respect to any property take or purchased by the Crown or by any department or commission of the Government of Ontario or with respect to any interest in such property where the amount of such compensation has been fixed by an award made under *The Public Works Act* or any other general or special Act of the Legislature, or has been agreed upon and the judge of the county or district in which the property is situate has certified in writing that the amount of compensation is fair and reasonable, but no such person shall vote on any question arising in the Assembly touching such matter;

- (k) by reason of his being a surety for a public officer or Ontario land surveyor or other person required by law to furnish security to the Crown; sureties of public officers
- (l) by reason of having received payment from the Crown for the burial of indigents who were resident in territory without municipal organization; burial of indigents
- (m) by reason of his being entitled to or in receipt of any money under *The Legislative Assembly Retirement Allowances Act*, *The Public Service Act*, *The Public Service Superannuation Act* or *The Teachers' Superannuation Act* or under any other Act of the Legislature or the Parliament of Canada that provides a pension, annuity, allowance or other similar payment that is made up in whole or in part of public money; pensions  
R.S.O. 1970,  
cc. 241, 386,  
387, 455
- (n) by reason of his being entitled to receive on terms common to all persons similarly entitled and of his receiving or agreeing to receive in accordance with such entitlement any service or commodity or any refund, rebate, subsidy, loan or any other such benefit or payment that is authorized under any Act. benefits common to others  
R.S.O.  
1960, c. 208, s. 10 (1); 1960-61, c. 45, s. 4.

(2) A person elected a member of the Assembly who is at the time of his election a surety as aforesaid shall, before he sits or votes therein, take and complete such action as may be requisite to relieve him from any thereafter accruing liability in respect of his suretyship, and no person who is liable as such surety in respect of any accruing matter shall sit or vote in the Assembly. Duty of sureties who have been elected  
R.S.O. 1960, c. 208, s. 10 (2).

**11.** No disqualification under section 8 or 9 on any ground arising before the election shall be held by any court to affect the seat of a member of the Assembly or to disentitle any person to sit or vote therein until the disqualification has been duly found and declared by an election court, but this is not to be construed as affecting the cases provided for by subsection 2 of section 10, nor as affecting the right of the Assembly to expel a member according to the practice of Parliament or otherwise. When disqualification to become operative  
R.S.O. 1960, c. 208, s. 11.

**12.** If a person who is disqualified or ineligible or incapable of being elected a member of the Assembly is nevertheless elected and returned, his election and return is void. Effect of election of disqualified person  
R.S.O. 1960, c. 208, s. 12.

**13.** Notwithstanding anything in any Act, where a member of the Assembly is appointed a member of the Executive Council, he shall not, by reason of the acceptance of such appointment, vacate his seat or be disqualified from sitting or voting in the Assembly. Member not disqualified on appointment to Executive Council  
R.S.O. 1960, c. 208, s. 13.

Disqualifica-  
tion  
through  
acceptance  
of office

**14.—**(1) If a member of the Assembly by accepting any office or becoming a party to a contract or agreement as in sections 8 and 9 mentioned is disqualified by law to continue to sit or vote in the Assembly, his seat shall be vacated, but he may be re-elected if he is not declared ineligible under this Act.

Saving in  
case of,  
exchange of  
offices in  
Executive  
Council  
R.S.O. 1970,  
c. 153

(2) Nevertheless, whenever a person holding any of the offices mentioned in section 2 of *The Executive Council Act* and being at the same time a member of the Assembly resigns his office and accepts any other of such offices, he does not thereby vacate his seat in the Assembly.

additional  
offices in  
Executive  
Council

(3) Where a member of the Executive Council holding any one of the offices mentioned in section 2 of *The Executive Council Act* is appointed to hold another office in addition to or in connection with such first-mentioned office, he does not thereby vacate his seat, and any increase or change of emolument arising from the holding of such two offices does not cause a vacancy or render a re-election necessary. R.S.O. 1960, c. 208, s. 14.

Penalty  
upon  
disqualified  
person  
sitting  
or voting

**15.—**(1) Subject to section 11, a person ineligible as a member of or disqualified from sitting or voting in the Assembly who sits or votes therein while he is so ineligible or disqualified shall forfeit the sum of \$2,000 for every day on which he so sits or votes, and such sum may be recovered from him by any person who sues for it in any court of competent jurisdiction.

Idem

(2) If an action is brought and judgment is recovered against the defendant, no other action shall be brought or proceeding taken against him for any act under this section committed before notice to him of the recovery of the judgment.

Staying  
proceedings  
in other  
actions

(3) The court wherein any other action is brought contrary to the intent and meaning of this Act, may upon the defendant's motion, stay the proceedings therein, if the first-mentioned action be prosecuted without fraud and with effect, but no action shall be deemed an action within this section unless so prosecuted. R.S.O. 1960, c. 208, s. 15.

Affidavit  
to be filed  
before oath  
taken  
1867, c. 3  
(Imp.)

**16.** Before a member elect is permitted to take the oath of allegiance required by *The British North America Act, 1867*, he shall file with the Clerk of the Assembly an affidavit in Form 1. R.S.O. 1960, c. 208, s. 16.

Disclaimer  
by member  
elect

**17.—**(1) A member elect may at any time before his election is complained of disclaim his seat in the manner hereinafter provided, and he thereby vacates the seat and ceases to be a member in respect of the seat so disclaimed.

(2) A member elect who desires to disclaim may transmit by registered mail addressed to the Clerk of the Legislative Assembly, Toronto, or cause to be delivered to him, a disclaimer signed by the member in the presence of two subscribing witnesses to the following effect:

Mode of  
disclaiming

I, . . . . ., member elect to the Legislative Assembly for the electoral district of . . . . ., hereby disclaim all my right or title to sit or vote or in any manner to act as such member.

R.S.O. 1960, c. 208, s. 17 (1, 2).

(3) The Clerk of the Assembly shall, on receiving a disclaimer, forthwith send a copy thereof,

Transmis-  
sion of copy  
of disclaimer

(a) in the case of an election that has taken place in The Regional Municipality of York or The Municipality of Metropolitan Toronto, to the Registrar of the Supreme Court at Toronto;

(b) in the case of an election that has taken place elsewhere, to the local registrar for the county or provisional judicial district in which the electoral district for which the member so disclaiming or any part thereof is situate, was elected. R.S.O. 1960, c. 208, s. 17 (3), *amended*.

(4) A petition that has been presented before the petitioner has notice of the filing of a disclaimer and in which the election is complained of on any ground other than of corrupt practices committed by the member elect or of corrupt practices having extensively prevailed at the election and in which the seat is not claimed for the petitioner or some other person, may be dismissed by a judge of the Court of Appeal on notice to the petitioner and on proof by affidavit that the disclaimer has been given in the prescribed manner.

Dismissal  
of petition  
where  
disclaimer  
filed

(5) If no petition is filed within the time limited for that purpose by *The Controverted Elections Act*, or if the petition is dismissed, the Lieutenant Governor in Council may direct the issue of a new writ for the election of a member in the place of the member disclaiming. R.S.O. 1960, c. 208, s. 17 (4, 5).

Issuing writ  
when no  
petition filed  
after  
disclaimer  
R.S.O. 1970,  
c. 84

**18.** If a person returned as elected at a general election wishes to resign his seat before the first session of the Legislature thereafter, he may address and cause to be delivered to any two members elect of the Assembly a declaration that he resigns his seat, made in writing under his hand before two subscribing witnesses, and the two members upon receiving the declaration shall forthwith address their warrant under their hands and seals to the Chief Election Officer for the issue of a writ for the election of a member for the electoral district in the place of the member so resigning, and the writ shall issue accordingly. R.S.O. 1960, c. 208, s. 18.

Resignation  
before  
meeting of  
Legislature



In other  
cases

**19.**—(1) A member may also resign his seat,

- (a) by giving in his place in the Assembly notice of his intention to resign it, which notice shall be entered immediately by the Clerk of the Assembly upon the Journals of the Assembly; or
- (b) by addressing and causing to be delivered to the Speaker a declaration that he resigns his seat, made in writing under his hand before two subscribing witnesses, which declaration may be so made and delivered either during a session of the Legislature or in the interval between two sessions.

Record

(2) An entry of the declaration so delivered to the Speaker shall thereafter be made upon the Journals of the Assembly.

New writ

(3) Immediately after the notice of intention to resign has been entered upon the Journals, or after the receipt of the declaration, as the case may be, the Speaker shall address his warrant under his hand and seal to the Chief Elections Officer for the issue of a writ for the election of a member in the place of the member so resigning, and in either case the writ shall issue accordingly. R.S.O. 1960, c. 208, s. 19.

Where  
there is no  
Speaker, or  
the member  
is himself  
the Speaker

**20.** If a member wishes to resign his seat in the interval between two sessions of the Legislature, and there is then no Speaker, or the Speaker is absent from Ontario, or if the member is himself the Speaker, he may address and cause to be delivered to two members the declaration before mentioned, and the two members upon receiving the declaration shall forthwith address their warrant under their hands and seals to the Chief Election Officer for the issue of a writ for the election of a member in the place of the member so resigning, and the writ shall issue accordingly. R.S.O. 1960, c. 208, s. 20.

Conse-  
quences of  
resignation

**21.**—(1) A member or member elect tendering his resignation in any manner hereinbefore provided for shall be deemed to have vacated his seat and to have ceased to be a member of the Assembly in respect thereof.

Time for  
resignation

(2) A member or member elect shall not tender his resignation while his election is controverted, nor until after the expiration of the time within which an election petition may be filed. R.S.O. 1960, c. 208, s. 21.

Issue of writ  
for new  
election,  
when elec-  
tion declared  
void

R.S.O. 1970,  
c. 84

**22.**—(1) Forthwith after the receipt by the Speaker, or if there is no Speaker, or the Speaker is absent from Ontario, by the Clerk of the Assembly, of a certificate under *The Controverted Elections Act* that an election was void, the Speaker or the Clerk of the Assembly, as the case may be, shall address his warrant under his hand and seal to the Chief Election Officer for the issue of a

writ for the election of a member for the electoral district, the election for which had been certified to be void, and the writ shall issue accordingly.

(2) The Speaker shall forthwith after the receipt of the certificate communicate the same to the Clerk of the Assembly. R.S.O. 1960, c. 208, s. 22. Notification

**23.** The proceedings taken under sections 18 to 22 by the Speaker or Clerk of the Assembly shall be reported to the Assembly at the earliest practicable time, and shall be forthwith entered upon the Journals. R.S.O. 1960, c. 208, s. 23. Report to Assembly

**24.—**(1) If a person returned as elected appears by the certificate mentioned in section 22 not to have been duly returned or elected, he shall not thereafter unless re-elected sit or vote in the Assembly. Disqualification of persons declared not elected

(2) If a person, other than the person returned as elected, appears by the certificate to have been duly returned or elected, he is thereupon entitled to sit and vote in the Assembly. R.S.O. 1960, c. 208, s. 24. Rights of persons declared elected

**25.** No writ shall issue under sections 18 to 24 during a session of the Legislature. R.S.O. 1960, c. 208, s. 25. Writ not to issue during session

**26.** (1) If a vacancy occurs in the Assembly by the death of a member, or by his accepting an office, commission or employment, or by his becoming a party to a contract as mentioned in section 9, unless otherwise provided by this Act, the Speaker, on being informed of the vacancy by a member of the Assembly in his place, or by notice in writing under the hands and seals of two members, shall forthwith address his warrant to the Chief Election Officer for the issue of a writ for the election of a member to fill the vacancy, and the writ shall issue accordingly. Proceedings in case of vacancy by death or acceptance of office

(2) If any such vacancy occurs, or at any time thereafter, before the warrant for the writ has issued, there is no Speaker, or the Speaker is absent from Ontario, or if the member whose seat is vacated is himself the Speaker, then two members may address their warrant under their hands and seals to the Chief Election Officer for the issue of a writ for the election of a member to fill the vacancy, and the writ shall issue accordingly. R.S.O. 1960, c. 208, s. 26. Proceedings when Speaker is absent from Ontario or there is no Speaker

**27.—**(1) A warrant may issue under the hands and seals of two members elect to the Chief Election Officer for the issue of a writ for the election of a member to fill a vacancy arising after a general election and before the first session of the Legislature thereafter, by reason of any of the causes mentioned in section 26, and the writ may issue at any time after such vacancy. Filling a vacancy before Legislature meets after a general election

Election  
being con-  
tested not  
affected

(2) The election to be held under the writ does not affect the right of any person entitled to contest the previous election, and the election court shall determine whether the member who has died or whose seat has become vacant as aforesaid, or any other person, was duly returned or elected, which determination, if adverse to the return of such member and in favour of any other candidate, avoids the election held under this section, and the candidate declared duly elected at the previous election is entitled to take his seat as if no subsequent election had been held. R.S.O. 1960, c. 208, s. 27.

Where  
vacancy  
exists for  
three  
months

**28.** Subject to section 25, if the seat of a member has been vacant for three months and no writ has been issued, the Chief Election Officer shall issue the writ forthwith. R.S.O. 1960, c. 208, s. 28.

Election of  
Speaker

**29.**—(1) The Assembly at its first meeting after a general election shall proceed to elect one of its members to be Speaker.

Vacancy in  
office of  
Speaker

(2) In case of a vacancy in the office of Speaker, the Assembly shall proceed to elect another of its members to be Speaker. R.S.O. 1960, c. 208, s. 29.

Duty to  
preside

**30.** The Speaker shall preside at all meetings of the Assembly. R.S.O. 1960, c. 208, s. 30.

Illness, etc.,  
of the  
Speaker

**31.** When the Speaker finds it necessary to leave the chair during any part of the sittings on any day, he may call upon any member to take the chair and to act as Speaker during the remainder of the day unless the Speaker himself resumes the chair before the close of the sittings for that day. R.S.O. 1960, c. 208, s. 31.

Election of  
Speaker  
for the day

**32.** When the Speaker is not present at the meeting of the Assembly on any day, the Assembly may elect a member to take the chair and act as speaker for that day. R.S.O. 1960, c. 208, s. 32.

Election of  
speaker  
*pro tem*

**33.** If the Speaker is absent from the chair for a period of forty-eight consecutive hours, the Assembly may elect another of its members to act as speaker, and the member so elected, during the continuance of the absence of the Speaker, has all the powers, privileges and duties of the Speaker. R.S.O. 1960, c. 208, s. 33.

Validity of  
acts while  
acting  
Speaker  
presides

**34.** Every bill passed and every order made and thing done by the Assembly while a member is acting as speaker is as valid and effectual as if done while the Speaker himself was in the chair. R.S.O. 1960, c. 208, s. 34.

**35.**—(1) The Assembly may at all times command and compel the attendance before the Assembly or a committee thereof of such persons, and the production of such papers and things, as the Assembly or committee considers necessary for any of its proceedings or deliberations.

Power to compel attendance of witnesses, etc.

(2) When the Assembly requires the attendance of a person before the Assembly or a committee thereof, the Speaker may issue his warrant directed to the person named in the order of the Assembly requiring his attendance before the Assembly or committee and the production of the papers and things as ordered. R.S.O. 1960, c. 208, s. 35.

Speaker's warrant for attendance, etc.

**36.** No person is liable in damages or otherwise for any act done under the authority of the Assembly and within its legal power or under or by virtue of a warrant issued under such authority, and every such warrant may command the aid and assistance of all sheriffs, bailiffs, constables and others, and every refusal or failure to give such aid or assistance when required is a contravention of this Act. R.S.O. 1960, c. 208, s. 36.

Protection of persons acting under authority

**37.** A member of the Assembly is not liable to any civil action or prosecution, arrest, imprisonment or damages, by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the Assembly or a committee thereof. R.S.O. 1960, c. 208, s. 37.

Privilege of speech, etc.

**38.** Except for a contravention of this Act, a member of the Assembly is not liable to arrest, detention or molestation for any cause or matter whatever of a civil nature during a session of the Legislature or during the twenty days preceding or the twenty days following a session. R.S.O. 1960, c. 208, s. 38.

Freedom from arrest

**39.** During the periods mentioned in section 38, members, officers and employees of the Assembly and witnesses summoned to attend before the Assembly or a committee thereof are exempt from serving or attending as jurors in any court of justice in Ontario. R.S.O. 1960, c. 208, s. 39.

Exemption of members and officers from serving as jurors

**40.** No member of the Assembly shall knowingly accept or receive, either directly or indirectly, any fee, compensation or reward for or in respect of the drafting, advising upon, revising, promoting or opposing any bill, resolution, matter or thing submitted or intended to be submitted to the Assembly or a committee thereof. R.S.O. 1960, c. 208, s. 40.

Members not to receive fees for drafting bills, etc.

**41.** No barrister or solicitor who in the practice of his profession is a partner of a member of the Assembly shall knowingly accept or receive, directly or indirectly, any fee, compensation or reward for or in respect of any matter or thing mentioned in section 40. R.S.O. 1960, c. 208, s. 41.

Barristers, etc., being partners of members not to receive fees for drafting bills, etc.



## Penalty

**42.** Every person contravening any of the provisions of section 40 or 41 is liable to a penalty equal to the amount or value of the fee, compensation or reward accepted or received by him and the sum of \$500. R.S.O. 1960, c. 208, s. 42.

Breach of  
s. 40 a cor-  
rupt practice

**43.** Any contravention of section 40 is a corrupt practice, and an election petition setting up the contravention may be filed within six months after the contravention in the same manner and the proceedings thereupon shall be the same as in the case of other election petitions. R.S.O. 1960, c. 208, s. 43.

Vacation  
of seat

**44.** If judgment is recovered against a member of the Assembly for any penalty under section 42, or if by a resolution of the Assembly it is declared that a member has been guilty of a contravention of section 40, or if upon an election petition it is found that a member has been guilty of a contravention of section 40, his election becomes void and his seat shall be vacated, and a writ shall issue for a new election as if he were dead and he is incapable of being elected to or of sitting in the Assembly during the remainder of the term for which he was elected. R.S.O. 1960, c. 208, s. 44.

Jurisdiction  
of Assembly

**45.—(1)** The Assembly has all the rights and privileges of a court of record for the purposes of summarily inquiring into and punishing, as breaches of privilege or as contempts and without affecting the liability of the offenders to prosecution and punishment criminally or otherwise according to law, independently of this Act, the acts, matters and things following:

Assaults,  
insults,  
libels

1. Assault, insult or libel upon a member of the Assembly during a session of the Legislature or during the twenty days preceding or the twenty days following a session.

## Threats

2. Obstructing, threatening or attempting to force or intimidate a member of the Assembly.

Bribery and  
offering  
of fee

3. Offering to, or the acceptance by, a member of the Assembly of a bribe to influence him in his proceedings as such, or offering to or the acceptance by a member of any fee, compensation or reward for or in respect of the drafting, advising upon, revising, promoting or opposing any bill, resolution, matter or thing submitted to or intended to be submitted to the Assembly or a committee thereof.

Interference  
with officers

4. Assault upon or interference with an officer of the Assembly while in the execution of his duty.

Tampering  
with witness

5. Tampering with a witness in regard to evidence to be given by him before the Assembly or a committee thereof.

6. Giving false evidence or prevaricating or misbehaving in giving evidence or refusing to give evidence or to produce papers before the Assembly or a committee thereof. False evidence
7. Disobedience to a warrant requiring the attendance of a witness before the Assembly or a committee thereof, or refusal or neglect to obey a warrant mentioned in section 36. Disobedience to warrant
8. Presenting to the Assembly or to a committee thereof a forged or false document with intent to deceive the Assembly or committee. Presenting false documents
9. Forging, falsifying or unlawfully altering a record of the Assembly or of a committee thereof, or any document or petition presented or filed or intended to be presented or filed before the Assembly or committee, or the setting or subscribing by any person of the name of another person to any such document or petition with intent to deceive. Falsifying records, etc.
10. Taking any civil proceeding against, or causing or effecting the arrest or imprisonment of a member of the Assembly in any civil proceeding, for or by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the Assembly or a committee thereof. Taking civil proceedings against member
11. Causing or effecting the arrest, detention or molestation of a member of the Assembly for any cause or matter of a civil nature during a session of the Legislature or during the twenty days preceding or the twenty days following a session. Arresting member for debt, etc.

(2) For the purposes of this Act, the Assembly possesses all the powers and jurisdiction necessary or expedient for inquiring into, adjudging and pronouncing upon the commission or doing of the acts, matters or things mentioned in subsection 1 and for awarding and carrying into execution the punishment thereof. R.S.O. 1960, c. 208, s. 45. Jurisdiction given as to inquiring and punishing

**46.** Every person who, upon such inquiry, is found to have committed or done any of the acts, matters, or things mentioned in section 45, in addition to any other penalty or punishment to which he may by law be subject, is liable to imprisonment for such time during the session of the Legislature then being held as is determined by the Assembly. R.S.O. 1960, c. 208, s. 46. Punishment for contravention of s. 45.

**47.—(1)** Where the Assembly declares that a person has been guilty of a breach of privilege or of a contempt in respect of any of the acts, matters and things mentioned in section 45 and directs that the person be kept and detained in the custody of the Proceeding on contravention of s. 45 and arrest thereunder

sergeant-at-arms attending the Assembly, the Speaker shall issue his warrant to the sergeant-at-arms to take the person into custody and to keep and detain him in custody in accordance with the order of the Assembly. R.S.O. 1960, c. 208, s. 47 (1).

Warrant of  
committal

(2) Where the Assembly directs that the imprisonment shall be in a correctional institution in the Judicial District of York, the Speaker shall issue his warrant to the sergeant-at-arms and to the superintendent of such correctional institution commanding the sergeant-at-arms to take such person into custody and to deliver him to the superintendent of such correctional institution, and commanding the superintendent to receive and keep and detain him in custody in accordance with the order of the Assembly. R.S.O. 1960, c. 208, s. 47 (2), *amended*.

Decision of  
Assembly  
final

**48.** The determination of the Assembly upon any proceeding under this Act is final and conclusive. R.S.O. 1960, c. 208, s. 48.

Protection  
of persons  
publishing  
papers by  
order of  
Assembly

**49.**—(1) Any person who is a defendant in a civil proceeding commenced in any manner for or in respect of the publication of any report, paper, vote or proceeding by such person or by his servant by or under the authority of the Assembly may bring before the court in which the proceeding is pending (first giving twenty-four hours notice of his intention so to do to the plaintiff or his solicitor) a certificate under the hand of the Speaker or of the Clerk of the Assembly, stating that the report, paper, vote or proceeding in respect whereof the proceeding has been commenced was published by such person or by his servant by order or under the authority of the Assembly together with an affidavit verifying the certificate.

Stay of  
proceedings

(2) The court shall thereupon immediately stay the proceeding and it and every writ or process issued therein shall be taken to be finally put an end to, determined and superseded. R.S.O. 1960, c. 208, s. 49.

Production  
of papers  
to court

**50.**—(1) If a civil proceeding is commenced for or in respect of the publication of a copy of such report, paper, vote or proceeding, the defendant at any stage of the proceeding may lay before the court the report, paper, vote or proceeding and the copy with an affidavit verifying the report, paper, vote or proceeding and the correctness of the copy.

Stay of  
proceedings

(2) The court shall thereupon immediately stay the proceeding and it and every writ or process issued therein shall be taken to be finally put an end to, determined and superseded. R.S.O. 1960, c. 208, s. 50.

**51.** It is a good defence to any civil proceeding against a person for printing any extract from or abstract of any such report, paper, vote or proceeding that the extract or abstract was published *bona fide* and without malice. R.S.O. 1960, c. 208, s. 51. *Bona fide publication*

**52.** Except so far as is provided by section 40, nothing in this Act shall be construed to deprive the Assembly or a committee or member thereof of any right, immunity, privilege or power that the Assembly, committee or member might otherwise have been entitled to exercise or enjoy. R.S.O. 1960, c. 208, s. 52. *Saving of privileges inherent in Assembly or members*

**53.** Where the Assembly has adopted the report of the Printing Committee of the Assembly recommending the purchase of any publication for the use of the members of the Assembly or for other persons, the publication may be purchased by the Treasurer of Ontario and distributed according to the recommendations of the report, and the cost thereof shall be paid out of any sum appropriated by the Legislature for stationery, printing and binding. R.S.O. 1960, c. 208, s. 53. *Payment for books ordered by Printing Committee*

**54.** At least twenty members of the Assembly is necessary to constitute a quorum for the transaction of business, and for that purpose the Speaker shall be counted. R.S.O. 1960, c. 208, s. 54. *Quorum*

**55.** Questions arising in the Assembly shall be decided by a majority of voices, other than that of the Speaker, and, when the voices are equal, the Speaker has a vote. R.S.O. 1960, c. 208, s. 55. *Voting*

**56.** The Assembly shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of the Consolidated Revenue Fund, or of any tax or impost, to any purpose that has not been first recommended by a message of the Lieutenant Governor to the Assembly during the session in which the vote, resolution, address or bill is proposed. R.S.O. 1960, c. 208, s. 56. *Condition precedent to appropriations*

**57.** The judges of the Supreme Court are *ex officio* commissioners to report under the Rules of the Assembly in respect of estate bills. R.S.O. 1960, c. 208, s. 57. *Commissioners on estate bills*

**58.** Any standing or special committee of the Assembly may require that facts, matters and things relating to the subject of inquiry be verified or otherwise ascertained by the oral examination of witnesses, and may examine witnesses upon oath, and for that purpose the chairman or any member of the committee may administer the oath in Form 2. R.S.O. 1960, c. 208, s. 58. *Power of committees to examine on oath*



## Affidavits

**59.** Where witnesses are not required to be examined orally, an affirmation, declaration or affidavit, that is required to be made or taken by or according to any rule or order of the Assembly, or by the direction of any committee, and in respect of any matter or thing pending or proceeding before the committee, may be made and taken before the Clerk of the Assembly, the clerk of the committee, a commissioner for taking affidavits or a justice of the peace. R.S.O. 1960, c. 208, s. 59.

## Members' indemnities

**60.**—(1) An indemnity at the rate of \$12,000 per annum shall be paid to every member of the Assembly. 1965, c. 56, s. 1 (1), *part*; 1968-69, c. 61, s. 1 (1).

## Members' allowances

(2) An allowance for expenses at the rate of \$6,000 per annum shall be paid to every member of the Assembly. 1968-69, c. 61, s. 1 (2).

## computation

(3) For the purpose of computing the amount of any indemnity or allowance payable under this section, a member shall be deemed to have been a member from the polling day on which he was elected and, when the Legislature of which he was a member was dissolved, he shall be deemed to have been a member until the day preceding the polling day that followed the dissolution, or until his death, whichever occurs first.

## when paid

(4) Every indemnity and allowance under this section shall be paid on the 31st day of March in each year, but when a member resigns or dies or for any other reason ceases to be a member, the amounts that are payable to him for the period that concluded shall be paid forthwith. R.S.O. 1960, c. 208, s. 60 (2, 3).

## Advances

(5) Notwithstanding subsection 4, upon the request of a member, there shall be paid, out of the moneys that have accrued to him at the time the request is made, any part of his indemnity not exceeding \$1,000 per month and any part of his allowance for expenses not exceeding one-twelfth of his annual allowance for expenses per month. 1968, c. 63, s. 1; 1968-69, c. 61, s. 1 (3).

## Allowance for expenses of representation

**61.**—(1) In addition to his indemnity and allowance for expenses as a member, there shall be paid to every minister of the Crown in charge of a department and to the minister of the Crown who is a member of The Hydro-Electric Power Commission of Ontario and to the Leader of the Opposition an allowance for the expenses of representation at the rate of \$2,000 per annum.

## Idem

(2) In addition to his indemnity and allowance for expenses as a member, there shall be paid to every minister of the Crown without portfolio, other than the minister without portfolio who is a member of The Hydro-Electric Power Commission of Ontario, an allowance for the expenses of representation at the rate of \$1,000 per annum. R.S.O. 1960, c. 208, s. 61.

**62.**—(1) In addition to his indemnity as a member, there shall be paid, Indemnity; of Speaker, Leader of Opposition and leader of a minority party

- (a) to the Speaker an indemnity at the rate of \$5,000 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$15,000 per annum; and
- (c) to the leader of a party, except the Prime Minister and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly an indemnity at the rate of \$4,000 per annum.

(2) For the purpose of computing the amount of any indemnity payable under this section, the Speaker, Leader of the Opposition and leader of a party referred to in clause *c* of subsection 1, respectively, shall be deemed to have occupied the position from the polling day on which he was elected a member of the Assembly and, when the Legislature in which he occupied the position was dissolved, he shall be deemed to have occupied the position until the day preceding the polling day that followed the dissolution, or until his death, whichever occurs first; provided that, when the occupant of the position changes, the member succeeding to the position shall be deemed to have occupied the position from the day following that on which his predecessor ceased to occupy the position. computation

(3) Every indemnity under this section shall be paid on the 31st day of March in each year, but when the Speaker, Leader of the Opposition or leader of a party referred to in clause *c* of subsection 1, as the case may be, ceases to occupy the position, the amounts that are payable to him for the period then concluded shall be paid forthwith. when paid

(4) Notwithstanding subsection 3, upon the request of the Speaker, the Leader of the Opposition or the leader of a party referred to in clause *c* of subsection 1, there shall be paid, out of the moneys that have accrued to him under this section at the time the request is made, any part of his indemnity under subsection 1 not exceeding one-twelfth of his indemnity per month. 1968-69, c. 61, s. 2. advances

**63.**—(1) In addition to his indemnity as a member, there shall be paid for each session, Chairman and Deputy Chairman of Whole House and chairmen of standing committees, indemnity

- (a) to the person who is Deputy Speaker and Chairman of the Committees of the Whole House an indemnity of \$4,000;
- (b) to the Deputy Chairman of the Committees of the Whole House an indemnity of \$2,000; and
- (c) to the chairman of each standing committee an indemnity of \$1,000,

but no indemnity shall be paid to the chairman of a standing committee unless the committee has become organized and has dealt with matters properly before it.

When paid

(2) Every indemnity under this section shall be paid at the close of the session, and if in any session more than one person occupied the position, the indemnity shall be divided among them in proportion to the time that each occupied the position during the session. 1968-69, c. 61, s. 3, *part*.

Whips,  
indemnities

**64.**—(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$2,000 per annum;
- (b) to each of not more than two Deputy Government Whips, at the rate of \$1,000 per annum;
- (c) to the Opposition Whip, at the rate of \$1,000 per annum; and
- (d) to the party whip of each party that has a recognized membership of twelve or more persons in the Assembly, except the party from which the Government is chosen and the party recognized as the Official Opposition, at the rate of \$1,000 per annum.

When paid

(2) Every indemnity under this section shall be paid on the 31st day of March in each year, but when the person occupying such position ceases to occupy the position, the amounts that are payable to him for the period then concluded shall be paid forthwith. 1968-69, c. 61, s. 3, *part*.

Members'  
mileage  
allowance

**65.**—(1) There shall be allowed to each member of the Assembly in respect of thirty trips per annum from his place of residence to the seat of government at Toronto 10 cents for every mile of the distance between his place of residence to Toronto and return, which distance shall be determined and certified by the Speaker. 1965, c. 56, s. 2; 1968-69, c. 61, s. 4.

Monthly  
payments

(2) Upon the request of a member, the accrued annual allowance provided for in subsection 1 may be paid in monthly instalments not exceeding one-twelfth of the annual allowance, as certified by the Speaker. 1968, c. 63, s. 2.

Members of  
committees,  
allowances  
and  
expenses

**66.**—(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$50, and to the chairman thereof an allowance for expenses of \$60, and,

- (a) in addition to the allowance provided for in section 65, his actual disbursements for transportation other than

by private automobile or an allowance of 10 cents for every mile travelled by private automobile; and

- (b) his actual disbursements for meals, accommodation and gratuities,

for or incurred on every day on which the Assembly is not sitting,

- (c) upon which he attends a meeting of the committee; or

- (d) upon which he is absent from home and is travelling to and from meetings of the committee.

(2) The allowances and disbursements provided in subsection 1 shall be payable to a member of a committee for every day upon which he is absent from home and from the seat of government and is engaged in the work of the committee, whether or not the Assembly is sitting. 1968-69, c. 61, s. 5. Idem

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#### FORM 1

(Section 16)

#### AFFIDAVIT OF MEMBER ELECT

I, ....., of the ..... of .....  
in the ..... of ..... , elected to represent the Electoral  
District of ..... (as the case may be) in the Legislative  
Assembly of the Province of Ontario, make oath and say: That, except in respect  
of my personal expenses, I have not made, before, during or since my election, any  
payment, advance, loan or deposit for the purposes of the election last held for the  
electoral district otherwise than through my official agent appointed under *The  
Election Act*; and that I will not hereafter make any payment, loan or deposit in  
respect of the election, except through my official agent appointed under the said  
*Act*. I further say that I have not been guilty of any corrupt practice in respect of  
my election.

Sworn before me, this ..... }  
day of ....., 19..... }

Clerk of the Legislative Assembly

R.S.O. 1960, c. 208, Form 1.

#### FORM 2

(Section 58)

#### OATH OF WITNESSES

The evidence you shall give to this Committee touching the subject of the present inquiry shall be the truth, the whole truth, and nothing but the truth. So help you God.

R.S.O. 1960, c. 208, Form 2.





## CHAPTER 241

## The Legislative Assembly Retirement Allowances Act

**1.** In this Act,Interpre-  
tation

(a) “allowance” means an allowance under this Act;

(b) “indemnity” has the same meaning as in *The Legislative Assembly Act*;R.S.O. 1970,  
c. 240

(c) “member” means a member of the Assembly;

(d) “minister” means a member of the Executive Council, and includes for the purposes of this Act the Speaker, the Leader of the Opposition and any member who was formerly a member of the Executive Council, the Speaker or the Leader of the Opposition;

(e) “salary” means,

(i) the annual salary paid to a minister under *The Executive Council Act*, orR.S.O. 1970,  
c. 153(ii) the additional indemnity of the Speaker or the Leader of the Opposition authorized by *The Legislative Assembly Act*;

(f) “service” means service as a member or as a minister, as the case may be, for which indemnity or salary was paid;

(g) “Treasurer” means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 209, s. 1, *amended*.**2.** This Act shall be administered by the Treasurer. R.S.O. 1960, c. 209, s. 2.Adminis-  
tration of  
Act**3.** This Act applies to every member and to every minister. R.S.O. 1960, c. 209, s. 3.Application  
of Act**4.—(1)** There shall be deducted from the indemnity payable to a member an amount equal to 6 per cent thereof as such member's contribution under this Act.Current con-  
tributions,  
members

(2) Notwithstanding anything in subsection 1, contributions under this section shall not be deducted from the indemnity of a member after the total amount contributed by him is sufficient to provide an allowance equal to the amount of his indemnity. R.S.O. 1960, c. 209, s. 4.

Maximum  
con-  
tributions,  
members

Previous  
service,  
members'  
election

**5.—**(1) A member who was not a member on the 1st day of April, 1960, may, within ninety days from the day upon which the Assembly first is in session after he becomes a member, elect in writing to contribute under this Act in respect of any part of any period of service as a member previous to the 1st day of April, 1960, but the period or periods shall be chosen retrogressively from the date of such election.

Establish-  
ment of  
credit,  
members

(2) A member who elects to contribute in respect of a period of previous service as a member shall at the time of such election pay to the Treasurer an amount equal to the amount that he would have been required to contribute as a member had the Act been in force and applicable to him during such period, and thereupon he is entitled to credit for the payment so made.

Instalment  
payments,  
members

(3) Notwithstanding subsection 2, any amount required to be paid under that subsection may be paid in equal instalments over a period not exceeding three years commencing at the time of his election under that subsection.

Idem

(4) Where a member who is contributing under subsection 3 ceases to be a member or dies before completing his payments thereunder, he or his legal representative, as the case may be, may pay forthwith the balance outstanding. R.S.O. 1960, c. 209, s. 5.

Eligibility  
for allow-  
ance,  
members

**6.—**(1) A member who has contributed in respect of five or more years of service and who has attained the age of fifty-five years is entitled to an annual allowance during his lifetime upon his ceasing to be a member. R.S.O. 1960, c. 209, s. 6 (1); 1968, c. 64, s. 1.

Idem

(2) Where a person is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years, he may elect to take an allowance under subsection 3 at age fifty-five or an immediate allowance of a reduced amount under subsection 4.

Calculation  
of allowance  
at age 55,  
members

(3) The amount of a person's annual allowance under this section shall be an amount equal to 75 per cent of the total of his contributions as a member, but the amount of his allowance shall not exceed the amount of his indemnity.

Calculation  
of allowance  
under age  
55, members

(4) Where a person who is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years elects to take an immediate allowance of a reduced amount, the amount of his allowance shall be calculated under subsection 3 and then shall be reduced actuarially in accordance with the prescribed tables. R.S.O. 1960, c. 209, s. 6 (2-4).

Application  
of subs. 1

(5) Subsection 1 applies to persons who are or were members on or after the 23rd day of July, 1968, and, in the case of persons who were members before such date but are or were not members after such date, section 6 of *The Legislative Assembly Retirement Allowances Act* as it was in force immediately before such date applies. 1968, c. 64, s. 4, *amended*.

**7.**—(1) An allowance under section 6 shall be suspended while the person entitled thereto, Suspension of allowance, members

- (a) is a member of the Assembly, the House of Commons of Canada or the Senate of Canada;
- (b) is employed in the public service of Ontario;
- (c) holds an office of any kind the remuneration for which is paid out of the Consolidated Revenue Fund; or
- (d) is an officer, member or employee of a Crown agency as defined in *The Crown Agency Act*. R.S.O. 1970, c. 100

(2) Where a person whose allowance has been suspended under clause *a* of subsection 1 again ceases to be a member, his allowance shall be recalculated under section 6 having regard to any additional service as a member performed while his allowance was suspended. Recalculation of allowance, members R.S.O. 1960, c. 209, s. 7.

**8.**—(1) There shall be deducted from the salary payable to a minister an amount equal to 6 per cent thereof as such minister's contribution under this Act. Current contributions, ministers

(2) Notwithstanding anything in subsection 1, contributions under this section shall not be deducted from the salary of a minister after the total amount contributed by him is sufficient to provide an allowance equal to one-half the annual salary of a minister having charge of a department. Maximum contributions, ministers R.S.O. 1960, c. 209, s. 8.

**9.**—(1) A minister who was not a minister on the 1st day of April, 1960, may, within ninety days from the day upon which he becomes a minister, elect in writing to contribute under this Act in respect of any part of any period of service as a minister previous to the 1st day of April, 1960, but the period or periods shall be chosen retrogressively from the date of such election. Previous service, minister's election

(2) A minister who elects to contribute in respect of a period of previous service as a minister shall at the time of such election pay to the Treasurer an amount equal to the amount that he would have been required to contribute as a minister had the Act been in force and applicable to him during such period, and thereupon he is entitled to credit for the payment so made. Establishment of credit, ministers

(3) Notwithstanding subsection 2, any amount required to be paid under that subsection may be paid in equal instalments over a period not exceeding three years commencing at the time of his election under that subsection. Instalment payments, ministers

(4) Where a minister who is contributing under subsection 3 ceases to be a member or dies before completing his payments thereunder, he or his legal representative, as the case may be, may pay forthwith the balance outstanding. Idem R.S.O. 1960, c. 209, s. 9.



Eligibility  
for  
allowance,  
ministers

**10.**—(1) A minister who has contributed under section 8 or 9 and who has contributed in respect of five or more years of service as a member and who has attained the age of fifty-five years is entitled to an annual allowance during his lifetime upon his ceasing to be a minister and a member. R.S.O. 1960, c. 209, s. 10 (1); 1968, c. 64, s. 2.

Idem

(2) Where a person is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years, he may elect to take an allowance under subsection 3 at age fifty-five or an immediate allowance of a reduced amount under subsection 4.

Calculation  
of allowance  
at age 55,  
ministers

(3) The amount of a person's annual allowance under this section shall be an amount equal to 75 per cent of the total of his contributions as a minister, but the amount of his allowance shall not exceed one-half of the salary of a minister having charge of a department.

Calculation  
of allowance  
under age  
55, ministers

(4) Where a person who is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years elects to take an immediate allowance of a reduced amount, the amount of his allowance shall be calculated under subsection 3 and then shall be reduced actuarially in accordance with the prescribed tables. R.S.O. 1960, c. 209, s. 10 (2-4).

Application  
of subs. 1

(5) Subsection 1 applies to persons who are or were ministers on or after the 23rd day of July, 1968, and, in the case of persons who were ministers before such date but are or were not ministers after such date, section 6 of *The Legislative Assembly Retirement Allowances Act* as it was in force immediately before such date applies. 1968, c. 64, s. 4, *amended*.

Suspension  
of  
allowance,  
ministers

**11.**—(1) An allowance under section 10 shall be suspended while the person entitled thereto,

- (a) is a member of the Assembly, the House of Commons of Canada or the Senate of Canada;
- (b) is employed in the public service of Ontario;
- (c) holds an office of any kind the remuneration for which is paid out of the Consolidated Revenue Fund; or
- (d) is an officer, member or employee of a Crown agency as defined in *The Crown Agency Act*.

R.S.O. 1970,  
c. 100

Recalcula-  
tion of  
allowance,  
ministers

(2) Where a person whose allowance has been suspended under clause *a* of subsection 1 again ceases to be a member, his allowance shall be recalculated under section 10 having regard to any additional contributory service as a minister performed while his allowance was suspended. R.S.O. 1960, c. 209, s. 11.

Widow's  
allowance

**12.**—(1) The widow of a person who at the time of his death was in receipt of an allowance, or who was entitled to an allowance or whose allowance has been suspended under section 7 or 11, shall

be paid during her lifetime an allowance equal to one-half of the allowance that the person was receiving at the date of his death or to which he was entitled or that was suspended and recalculated under section 7 or 11, as the case may be.

- (2) The widow of a person, Idem
- (a) who had elected under section 6 or 10 to take a deferred allowance at age fifty-five; or
  - (b) who was eligible to make an election under section 6 or 10 but died before making such election; or
  - (c) who died before attaining the age of fifty-five years while still contributing and who was otherwise eligible for an allowance,

at any time may elect to take a deferred allowance, in which case, commencing on the day that the person would have attained the age of fifty-five had he lived, she shall be paid during her lifetime an allowance equal to one-half the allowance to which the person would have been entitled at that time, or may elect to take an immediate allowance, in which case she shall be paid during her lifetime an allowance equal to one-half the allowance, reduced actuarially in accordance with the prescribed tables, that the person would have been entitled to receive at the time of her election.

- (3) Subsections 1 and 2 do not apply to the widow of a person, Exception
- (a) if she married him after he attained the age of sixty-five years or after he was in receipt of an allowance; or
  - (b) after she remarries. 1968, c. 64, s. 3.

**13.**—(1) A person who makes contributions under this Act Refunds and who ceases to be a member before being eligible for an allowance is entitled to a refund of an amount equal to the amount of his contributions with interest thereon at the rate of 6 per cent per annum and, in the event of his death, his personal representative is entitled to the same refund.

(2) Where a person who is in receipt of an allowance dies and no Idem person becomes entitled to an allowance under section 12, his personal representative is entitled to a refund equal to the amount of the difference between the amount of his contributions with interest thereon at the rate of 6 per cent per annum up to the time he commenced to receive the allowance and the amount of the allowance paid to him up to the time of his death. R.S.O. 1960, c. 209, s. 13.

**14.** A person who has received a refund under subsection 1 of section 13 and who again becomes eligible to contribute under this Act may pay to the Treasurer the amount of the refund with Reinstatement after refund

interest at the rate of 6 per cent per annum and thereupon he is entitled to credit for the amount so paid. R.S.O. 1960, c. 209, s. 14.

Payments  
into and  
out of  
Consolidat-  
ed Revenue  
Fund

**15.** All contributions and interest received under this Act shall be credited to the Consolidated Revenue Fund and all payments of allowances and refunds and interest are a charge against the Consolidated Revenue Fund. R.S.O. 1960, c. 209, s. 15.

Special  
account

**16.**—(1) The Treasurer shall establish in the Consolidated Revenue Fund an account to be known as the Legislative Assembly Retirement Allowances Account in which shall be entered all receipts and disbursements under this Act.

Annual  
payments  
into special  
account

(2) The Treasurer shall pay annually from the Consolidated Revenue Fund into the Legislative Assembly Retirement Allowances Account such sum as the Lieutenant Governor in Council may direct to assist in defraying the cost of allowances under this Act. R.S.O. 1960, c. 209, s. 16.

Application  
of  
R.S.O. 1970,  
c. 387

**17.** Section 32 of *The Public Service Superannuation Act* applies *mutatis mutandis* to any moneys payable to any person under this Act. R.S.O. 1960, c. 209, s. 17.

Recipients  
of  
allowances,  
etc., not  
disqualified  
R.S.O. 1970,  
c. 240

**18.** Notwithstanding anything in *The Legislative Assembly Act* or any other Act, the application of this Act to a person does not render him ineligible as a member of the Assembly or disqualify him from sitting and voting therein. R.S.O. 1960, c. 209, s. 18.

Teachers'  
rights not  
affected  
R.S.O. 1970,  
c. 455

**19.** Notwithstanding subclause xv of clause e of section 1 of *The Teachers' Superannuation Act*, this Act does not affect the rights of a member under *The Teachers' Superannuation Act*. R.S.O. 1960, c. 209, s. 19.

Regulations

**20.** The Lieutenant Governor in Council may make regulations,

- (a) respecting the manner and times of payment of instalments under subsection 3 of section 5 and subsection 3 of section 9;
  - (b) prescribing tables for the purposes of subsection 4 of section 6 and subsection 4 of section 10;
  - (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 209, s. 20.
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## CHAPTER 242

## The Legitimacy Act

**1.**—(1) Where before or after the coming into force of this Act and after the birth of a person his parents have intermarried or intermarry, he is legitimate from birth for all purposes of the law of Ontario. Subsequent marriage

(2) Nothing in subsection 1 affects an interest in property that has vested in a person before the intermarriage of the parents or before the 1st day of July, 1921. Interests not affected 1961-62, c. 71, s. 1.

**2.** Where before or after the coming into force of this Act a decree of nullity has been or is granted in respect of a voidable marriage, a child who would have been the legitimate child of the parties to the marriage if it had been dissolved instead of being annulled continues to be legitimate notwithstanding the annulment. Voidable marriages 1961-62, c. 71, s. 2.

**3.** Where before or after the coming into force of this Act a person, Void marriages, special cases

- (a) in respect of whose spouse an order of presumption of death has been or is made either generally or *inter alia* in relation to remarriage; or
- (b) whose spouse was a member of the Canadian Armed Forces in respect of whom official notification that he is dead or is presumed to be dead has been given under the laws of Canada,

has entered into or enters into a marriage that would be valid if the spouse were in fact dead, then, if the person to whom the order of presumption of death relates or in respect of whom the official notification was given was alive when the marriage was entered into, a child of the persons entering into the marriage is legitimate from birth for all purposes of the law of Ontario. 1961-62, c. 71, s. 3.

**4.** Subject to section 3, where before or after the coming into force of this Act a person has been or is born of parents who entered into a marriage that is void, the person is legitimate from birth for all purposes of the law of Ontario if, Void marriages, generally

- (a) the marriage was registered or recorded in substantial compliance with the law of the place where it was entered into; and



- (b) either of the parties reasonably believed that the marriage was valid. 1961-62, c. 71, s. 4.

Application  
of ss. 2-4

**5.**—(1) Sections 2, 3 and 4 apply whether the child of the persons who entered into the marriage was born before or after entry into the marriage, but do not apply where the child was born eleven months after the marriage has been annulled or declared to be void by a court or other competent authority under the appropriate governing law.

Application  
of Act

(2) This Act legitimates a child notwithstanding the death of the child before the intermarriage of the parents. 1961-62, c. 71, s. 5.

Interests  
not affected

**6.** Nothing in section 2, 3, 4 or 5 affects an interest in property that has vested in a person before the 1st day of July, 1962 or, in the case of a marriage after the birth of the child, before the intermarriage of the parents. 1961-62, c. 71, s. 6.

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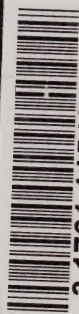












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